



Canada Royal Commission
on Pilotage
Hearings 1964
140 - 143



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

817
A
ROYAL COMMISSION

ON

56
PILOTAGE

HEARINGS

HELD AT

OTTAWA ONTARIO

VOLUME No.:

140 - 143

DATE:

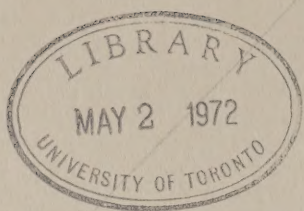
Sept. 16, 1964

OFFICIAL REPORTERS

ANGUS, STONEHOUSE & CO. LTD.
BOARD OF TRADE BLDG.
11 ADELAIDE ST. W.
TORONTO

364-5865

364-7383





ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Exchequer Court Building,
Ottawa, Ontario, on Wednesday,
September 16th, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federa- tion of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of Montreal Harbour Pilots; Corpora- tion of the Mid-St. Lawrence Pilots; Corpora- tion of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	for the Canadian Merchant Service Guild
Mr. Colin Mason	for the Dominion Marine Association
Mr. R. R. MacGillivray	for the Department of Transport



ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

INDEX OF EXHIBITS

<u>Number</u>	<u>Description</u>	<u>Page</u>
1313	Letter dated August 5, 1964, from Corporation of Lower St. Lawrence Pilots to District Marine Agent, Quebec, and answer dated August 12, 1964	17944
1314	Medical Report dated July 11, 1962	17960
1315	Confidential Report on pilot's career	18012
1316	Report of investigation by local Pilotage Committee dated May 27, 1959	18032
1317	Bundle of documents entitled "File of Commission of Inquiry"	18044
1318	Photocopy of letter written by Mr. Alan Cumyn to Mr. Gaston, dated October 3rd, 1960	18042
1319	List of vessels grounded in the vicinity of Cap Gribane during past five years. Letter from Captain Jones to Mr. H. Land, dated June 11th, 1962. Memo from Mr. H. Land to Captain Jones dated June 18th, 1962	18053
1320	Exchange of correspondence between the dates 31st of January, 1963 and March 10, 1959	18064



Ottawa, Ontario,
Wednesday,
September 16, 1964

---Upon commencing at 10.10 a.m.

CAPTAIN S. S. SLOCOMBE, recalled

DIRECT EXAMINATION BY MR. JACQUES, (Cont'd):

THE SECRETARY: My lord, before we begin the evidence this morning the St. Lawrence Seaway has submitted to the Commission a supplementary answer to one of the questions pertaining to delays in shipping at the western end of the district, namely the Welland Canal. It was Item 6 in the questions, and this should be added to the exhibit that was filed as Exhibit No. 1292.

THE CHAIRMAN: So that was the further information that we were furnished with regard to the delays on the Welland Canal?

MR. JACQUES: Yes, my lord.

THE WITNESS: My lord, I have a few of the answers that were requested to questions yesterday, if I may give them.

THE CHAIRMAN: Yes, that is all right; please go ahead.

THE WITNESS: One was "Any correspondence with pilots of the Quebec District about the light at Cap a la Bale?"

The answer is that there was no correspondence between headquarters and the Quebec pilots about this light. However, subsequent to the



1 Notice to Shipping being issued in August 17, 1962,
2 advising that the light was installed for experimen-
3 tal purposes the pilots wrote the District Marine
4 Agent a letter dated January 23, 1963, expressing
5 their dissatisfaction with the light.

6 The Dominion Marine Association wrote
7 the department on April 5th, 1963, stating their
8 satisfaction with the light. On April 23, 1963,
9 the District Marine Agent informed Ottawa that it
10 was his intention to relocate the light higher in
11 Cap a la Baie because the pilots complained that the
12 height about high water was so low that the light
13 might be confused with the side light of a ship.

14 Some difficulty was experienced in
15 obtaining permission from the owner of the land for
16 installing the structure on his property. However,
17 this problem was overcome and the light was relocated
18 on May 29th, 1964. That is all the information we
19 have on that.

20 MR. JACQUES:

21 Q. So we can say that to date you have
22 not had any adverse reports on the relocation of the
23 light?

24 A. We have not in our department, in
25 our office in Ottawa. It is possible that the
26 District Marine Agent may have had something, I do
27 not know.

28 MR. LALONDE: I have correspondence
29 here, my lord, between the Quebec Pilots' Corporation
30 and the District Marine Agent.



1 THE CHAIRMAN: Are you going to file
2 it?

3 MR. LALONDE: I may just as well file
4 it. It may not be quite the proper way to do it, but
5 with the consent of everybody . . .

6 THE CHAIRMAN: That is all right;
7 you may do it. Should we find that we need some
8 further information, we will dig into that for our-
9 selves.

10 MR. LALONDE: Well, primarily it is
11 only a request by the Corporation that the report be
12 removed, alleging an agreement which the Dominion
13 Marine Association representative made before the
14 Royal Commission in that respect and Captain Gaudreau
15 answers that he has not received any such advice from
16 Dominion Marine and therefore he cannot do anything
17 in that respect.

18 I cannot find it right now, but I
19 will have it in a few minutes. Do you want to give
20 it a number now?

21 THE CHAIRMAN: 1123.

22 THE SECRETARY: Could I have a
23 description of the letters again?

24 MR. LALONDE: Well, there are two
25 letters, one dated August 5th, 1964, by Mr. Wilfred
26 Menard, Secretary-Treasurer of the Corporation of the
27 Lower St. Lawrence Pilots, to Captain George Gaudreau,
28 District Marine Agent, Quebec, and the answer by
29 Captain Gaudreau to Mr. Menard is dated August 12th,
30 1964.



1 ---EXHIBIT NO. 1313: Letter dated August 5, 1964,
2 from Corporation of Lower
3 St. Lawrence Pilots to
4 District Marine Agent,
Quebec, and answer dated
August 12, 1964.

5 THE WITNESS: My lord, on with the
6 subject of lights, I have just had handed to me by
7 Mr. Elliot a note on the changes of the range lights
8 at Sorel that were discussed yesterday. Would it be
9 satisfactory for me to read this note?

10 MR. JACQUES:

11 Q. Yes, please?

12 A. The District Marine Agent, Sorel,
13 has on file letters complaining of the low intensity
14 of the Pont du Lac range lights. Pont du Lac is
15 on Lake St. Peter, I think.

16 THE CHAIRMAN: The east end of Lake
17 St. Peter on the north side?

18 THE WITNESS: It is in the Montreal
19 District, but the same thing applies right through.

20 The latest letter, being one dated
21 12th September, 1961, signed by Captain Gendron . . .
22 Would that be Captain Jacques Gendron? No. This is
23 from the pilots. I do not know which Gendron this
24 is -- whether it is Leon. It would not be Leon.
25 Captain Gendron must have passed it on, giving the
26 opinion of the pilots.

27 The District Marine Agent tried to
28 improve these lights first by doubling the lights and
29 when this was not satisfactory he installed for the
30 opening of navigation, 1963, the present equipment on



1 a trial basis. He asked Mr. Malenson in Montreal
2 on more than one occasion when speaking to him by
3 telephone what the pilots thought of the new Pont du
4 Lac lights and also the new Ile du Pont lights also
5 installed for trial purposes at the opening of the
6 navigation season, 1963.

7 Mr. Malenson stated the pilots
8 liked the new lights very much and had no further
9 complaints about Pont du Lac.

10 The District Marine Agent had also
11 consulted the masters of the ships in his district,
12 who confirmed his own opinion and that of his District
13 Engineer that the new lights were much superior to
14 the old ones. On this basis he recommended the
15 change of all the others in his district.

16 Headquarters approved the recommen-
17 dation based on the District Marine Agent's recommen-
18 dation and also on the successful use of this equip-
19 ment in many locations both on the east and west
20 coasts of Canada and on the Great Lakes.

21 As these lights were mounted in the
22 same structures there were no changes in height,
23 colour or character. The width of the beams,
24 though somewhat narrower, was sufficient to cover
25 the whole of the width of the dredged channels
26 they marked and adequate for changing course into the
27 alignments as established by years of experience in
28 other places.

29 The need for a Notice to Mariners to
30 cover the change was not apparent to headquarters, who



1 did not know the pilots were using the lights for
2 other purposes than those normally required for
3 range lights. The department would welcome dis-
4 cussions with their pilots to meet their needs in
5 filling these other requirements.

6 Then the second question yesterday
7 was -- "Was any written instruction given to Mr.
8 Hamlen not to impose fines?"

9 Q. I do not think it was limited to
10 written instructions because you yourself had mentioned
11 the possibility of a telephone call.

12 A. All right, sir. The answer to the
13 written instructions is No, and I have asked Captain
14 Jones if he recalls ever having made a telephone call
15 and he does not. So we do not think that such in-
16 structions were given.

17 Question No. 3 -- "Check to see if
18 any pilot in the Quebec District requested that the
19 dues be paid directly to him or made any move to
20 withdraw the power of attorney."

21 The answer is that in the early
22 spring of 1936 one pilot received a cheque from the
23 Pilotage Authority before any revenue was turned over
24 to the Corporations, but a few weeks later he handed
25 the Corporation a cheque for the amount received from
26 the Pilotage Authority. Then during the 1962 strike
27 some of the pilots approached the District Supervisor
28 and requested that their money be paid directly to
29 them. This was only an oral request.

30 He, we understand, informed them that



1 they would require a withdrawal of the power of attor-
2 ney and it seems that he did not do any more about it.
3 Nothing was done, anyhow. That is the only infor-
4 mation we have on that.

5 I have no more answers, my lord.

6 Q. Thank you. Now I should like to go
7 back on a question, particularly Question No. 21 --
8 "Was the Pilotage Authority aware that Three Rivers
9 to Quebec pilots did not dock their vessels in
10 St. Charles estuary on flood tide?" Further to
11 answers given yesterday I should like you to confirm
12 whether or no the Pilotage Authority charges a
13 moveage in the case where the Montreal, Quebec pilots,
14 having disembarked at Quebec, a Quebec pilot boards
15 the vessel and docks her?

16 A. The answer is Yes.

17 Q. The answer is Yes. Would you ex-
18 plain to the Commission under what section of the
19 relevant bylaws you make such charge?

20 A. Oh, yes. If a Quebec pilot joins
21 the ship, then it comes under the Quebec bylaws.
22 With this harbour there is an overlap between the
23 two districts here. Quebec harbour is in the
24 Montreal district as well as in the Quebec district
25 and there is nothing else we can do. If a Quebec
26 pilot is employed to perform the moveage there would
27 be no reason for withholding payment or withholding
28 the bill.

29 Q. Now I refer you to the Montreal
30 Pilotage District general bylaw which has been filed



1 in Montreal. The exhibit number I have forgotten.
2 I refer you particularly to Section 12, paragraph 1?

3 A. Right.

4 Q. I believe this section which is con-
5 tained in P.C. 1961-1475 has not been amended although
6 several of the other sections have been amended.

7 A. Oh, no, there would be no amendment
8 to that.

9 Q. This section reads as follows: "The
10 pilot having the conduct of the vessel shall" ---
11 therefore it is an obligation -- "unless he is dis-
12 charged by the master, owner or agent, remain on
13 board until the service for which he was engaged has
14 been performed and the vessel is in a safe position
15 or until he has been relieved by another pilot."

16 It seems to me that a Montreal pilot,
17 even where he feels that it may not be a suitable
18 time to dock the vessel, is still under an obligation
19 to remain on board if he wishes to perform his duties
20 in accordance with that section.

21 MR. LALONDE: My lord, since we are
22 getting to a legal argument here, I draw the Com-
23 mission's attention to the fact that this paragraph
24 says, "unless he is discharged by the master, owner
25 or agent." As far as I know in these instances
26 the agent, the master or the owner agreed to the
27 procedure which was followed in those specific in-
28 stances. Secondly, it is said in this section
29 "or until he has been relieved by another pilot".
30 Then he has a Quebec pilot coming on board without the



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Sloccombe, dir
(Jacques)

17949

1 agreement of the master. This is to be presumed.
2 Taking the Canada Shipping Act you have provisions
3 that if a pilot feels that it is unsafe . . .
4 Let us find the exact provision now. I cannot find
5 it immediately.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30



1 MR. LALONDE: But when the general
2 principle is it is unsafe to do such-and-such an act
3 at a certain time, he certainly still is obliged
4 to remain on board. He has no choice. He will
5 advise the master accordingly and tell him the ship
6 is completely his, but the master will act against
7 his advice, so I think these provisions meet pretty
8 well the situation.

9 MR. JACQUES: May I finish my
10 question?

11 THE CHAIRMAN: Yes.

12 MR. JACQUES: I am not disputing
13 what my friend says that if the master discharges the
14 pilot the pilot has terminated his pilotage, but there
15 may be room for argument on the way the master dis-
16 charges the pilot.

17 However, I think it must be admitted
18 that the duty of the pilot is to, let us say, advise
19 the master from point A to point B, whatever point
20 B is -- it could be an anchorage or dock where the
21 pilot has to dock the ship; is that correct?

22 THE WITNESS: Oh, yes, and we could
23 use this argument elsewhere.

24 BY MR. JACQUES:

25 Q. The tariffs of the Montreal bylaws
26 I believe do not provide specifically for that type
27 of contingency.

28 A. They provide for moveages in Quebec
29 harbour, but may I point out, Mr. Jacques, Section 361---

30 Q. Let me finish, please, and explain



1 my point of view. Therefore, in order that pilotage
2 dues be earned, the pilot must perform the duties for
3 which he was hired; is that correct?

4 A. I would say so.

5 Q. Under Section 12, subparagraph 1, of
6 the bylaw, unless he is discharged by the master, he
7 has the obligation to remain on board until the ser-
8 vice has been performed and the vessel is in a safe
9 position. In the case of a vessel docking, say, in
10 the St. Charles estuary, the service for which the
11 pilot has been engaged was to take the ship from
12 Three Rivers to the St. Charles estuary and dock it;
13 therefore, the pilot, unless he is discharged by the
14 master in theory would have an obligation to remain
15 on board until the vessel is tied up.

16 If he feels that owing to tidal con-
17 ditions it is not safe to dock the vessel, then it
18 is covered by the relevant section of the tariff
19 providing that no detention may be charged I believe
20 if the vessel is detained or the pilot detained on
21 board vessel in certain times and conditions; is
22 that correct?

23 A. I would think that is correct, yes.

24 MR. LALONDE: My friend should indeed
25 look at 361 which has been referred to. I don't think
26 any provision in the bylaw can supersede the provision
27 in the Act itself.

28 THE CHAIRMAN: We have seen many
29 instances of that.

30 BY MR. JACQUES:



1 Q. Would you check?

2 A. What is the reference to the section?

3 Q. I believe it is Section 4 of the
4 Schedule. Section 4(b).

5 A. Section 4(b) says that when a vessel
6 is compelled at any time during the trip to berth at
7 or near any intermediate port or to anchor in any part
8 of the river for any reason other than (1) stress of
9 weather; (2) adverse tidal conditions or (3) adverse
10 ice conditions, the pilots charge the ship as for
11 voyages to or from the said intermediate port or
12 the nearest port to the place of anchor. This is
13 alleged to be by the pilots adverse tidal conditions,
14 so they would not apply in that case.

15 Q. And the section with respect to
16 detention?

17 A. Section 7.

18 Q. If he is detained on board for
19 reason of tidal conditions, there is no detention.
20 I think this is the combined effect of section 7 and
21 section 4.

22 A. I would be inclined to agree.

23 Q. Let's agree for the moment.

24 A. Okay.

25 Q. Therefore I submit to you that the
26 pilot having been hired to take the ship to the St.
27 Charles estuary, unless he is discharged by the
28 master, and I submit that unless he is discharged
29 by the master who would be fully aware of all the
30 consequences, that the Authority could not charge a



1 moveage to place that ship alongside?

2 A. This I think would be very difficult
3 for us to carry out in the face of Section 361 of the
4 Act.

5 Q. Indeed, sir.

6 A. Because the pilot has in his view
7 taken the ship to as close thereto, to use the words
8 of the Act, as he can safely get at the time of
9 arrival.

10 Q. I submit to you that Section 361
11 read with the rest of the Act does not say "as near
12 as the pilot is able to get the ship," but as near
13 as she may get.

14 A. Safely get.

15 Q. And if Pilot A does not feel up to
16 doing a job while Pilot B immediately afterwards is
17 able to do the job, Section 361 would not apply because
18 the ship is able to get to the estuary.

19 A. If the pilot took over immediately,
20 yes, that is correct.

21 Q. Which in some cases has happened
22 according to the evidence which we have.

23 A. I believe this is so, but this was
24 a long-standing difficulty between the two groups of
25 pilots, if you can call it difficulty.

26 THE CHAIRMAN: This is a question
27 we have seen in various places, one instance in
28 New Westminster and the other instance in Courtenay
29 Bay, where the pilots say, as a group of pilots
30 against another group of pilots, "we won't do this."



1 MR. LALONDE: I am sure, my lord,
2 the Three Rivers, Quebec, pilots have never said as
3 a group they won't do it.

4 THE CHAIRMAN: No, a group inside
5 a group of pilots decide not to do it. We have two
6 definite examples in New Westminster and Courtenay
7 Bay, when the pilots decide that it would not be
8 safe or that they would not do a job because they
9 feel it is not safe while some of them will say,
10 "Well, I can do it but I know that the young ones
11 cannot do that."

12 In a case like that what is the
13 ruling? A ruling given by the pilots of the group.
14 Have you ever thought of challenging that ruling
15 by having experts to examine the situation?

16 THE WITNESS: No, my lord, because
17 we feel that the pilots are supposed to be the ex-
18 perts.

19 THE CHAIRMAN: Yes. Are you going
20 to take the word of a pilot that it was the right
21 order to give and the right course of action to take?
22 Is the collision then going to be investigated?
23 If you bring this argument to the extreme, this
24 could lower the ship's service to a very, very low
25 level.

26 THE WITNESS: That is right, my
27 lord.

28 THE CHAIRMAN: So there should be a
29 check on that, should there not?

30 THE WITNESS: Yes, but I agree, my



1 lord, in general navigation, I mean collision cir-
2 cumstances, and so on, ^{but} who would we get to ~~decide~~
3 on the opinion in the case of a pilotage district,
4 and a particularly difficult pilotage district?

5 THE CHAIRMAN: Well, who do you
6 get when you have a collision and the same question
7 is raised? You have the judge and assessors. He
8 decides that the pilot was wrong or right. But this
9 is a problem, I think, because you might have a ten-
10 dency of lowering the efficiency of service to the
11 capacity of the less capable man in doing so.

12 Q. I might draw your lordship's attention
13 to subparagraph (k) of Section 329, which enables the
14 Pilotage Authority to "provide for the adjustment
15 and decision of questions and disputes arising between
16 masters of ships, pilots and others, respecting
17 pilotage matters."

18 A. As the Commission finds in various
19 places there is a difference between the capabilities
20 of different pilots. Whereas one pilot will be
21 prepared to take his ship and under certain circum-
22 stances in certain places another pilot will feel
23 it is highly dangerous. I think you have to be
24 consistent on this that we don't try to tell the
25 pilots how to do the job.

26 THE CHAIRMAN: It may be that the
27 pilots who feel he can do it, he may be taking a risk,
28 an undue risk.

29 THE WITNESS: That is correct and
30 as long as he is successful, he is a very smart pilot,



1 but if he makes a mess of it, then he shouldn't have
2 done it.

3 THE CHAIRMAN: That is all right.
4 I just wanted to show the problem there that we have
5 to face. I was just wondering whether the pilots
6 for themselves should be the sole judges of how they
7 should perform their own duties.

8 THE WITNESS: Well, the department
9 would be very pleased, my lord, to have some support
10 in changing the attitude on that, but with regard to
11 this change -- or this particular question we are
12 discussing, and I am thinking back from memory, one
13 of the arguments raised by the pilots was that they
14 have already performed a long pilotage, and if they
15 had then to perform a manoeuvre in which they had
16 no confidence themselves, it would be very hard on
17 them.

18 I am just saying now that these
19 are the arguments that have been put forward before.

20 Q. I think on the facts it is quite
21 sound to say that a pilot has been up on the bridge
22 for so many hours in arriving in Quebec that he
23 doesn't feel like docking the ship because of the
24 particular difficulties of the job. I think it
25 is quite sound to say that, but the law and the bylaws
26 as they stand to me seem to forbid the charging of
27 a moveage for that particular job, and I suggest
28 that the bylaws should have been amended to provide
29 for those cases.

30 MR. LALONDE: I submit, my lord, on



1 my side that the bylaw says "unless he is discharged
2 by the master".

3 THE CHAIRMAN: Yes, of course.

4 MR. LALONDE: And the instances are
5 quite clear that there are two problems. First of all,
6 Mr. Jacques in his questions stated the destination
7 of the ship when the pilot embarks on board was the
8 St. Charles estuary. I am informed in very many
9 instances the instructions are only obtained en route
10 but the instructions when the pilot embarks is to
11 take it to Quebec harbour, my lord. Very often
12 the ship is supposed to carry on, but en route a
13 ship is told to stop by.

14 I am also told there are instances
15 where certain lines -- and Captain Hamlen will
16 testify to that later on -- there are certain lines
17 where the policy is they will stick to the advice
18 given by the Three Rivers-Quebec pilots and won't
19 accept the Quebec pilot who might say he is willing
20 to do the job.

21 THE CHAIRMAN: Yes, we have had
22 evidence on that.

23 MR. BRISSET: In other words,
24 captain, if I may summarize this discussion, it is
25 always the shipowner who gets caught in the end. He
26 has to pay the full charge for the river district
27 because it is unsafe to dock the ship according to
28 the river pilot, and he must pay the docking charge
29 by the Quebec pilots because the Quebec pilot feels
30 it is safe to dock? Is that not about the way it



1 goes?

2 THE WITNESS: This would be the
3 case but I may say we would have been very interested
4 to see a law case brought by the shipowners about
5 this to settle it. I think it would be very diffi-
6 cult to say that a charge should not be made for the
7 services of a Quebec pilot if he actually does the
8 job. The two districts are quite separate and dis-
9 tinct in the bylaws.

10 MR. LALONDE: Isn't it a fact also
11 if the shipowner prefers not to pay this he can
12 always enter with the river pilot and dock the ship,
13 and there would be no charge? If he wants to get
14 service he should pay for it.

15 MR. JACQUES: The problem is not so
16 much that of waiting, because we have had evidence --
17 in fact there is one agent has a standing order in
18 view of his past experience to send a Quebec pilot
19 to dock the ship immediately upon arrival, a Quebec
20 pilot willing to dock the ship, and I believe the
21 name of the firm is Ramsey Greig.

22 Q. Now, Question 23. Have you searched
23 your files with respect to these two, very, very
24 unfortunate incidents?

25 A. This is the OAKHILL and CONTINENTAL
26 PIONEER.

27 Q. Yes, sir. The evidence we have
28 so far is that the pilot in question underwent a
29 medical examination on the 11th of July of the year
30 in which the casualty occurred, 1962. He further



1 underwent medical examination between the two
2 casualties. That is, on August 28th, and prior
3 to both of these dates he had supplied in several
4 instances medical certificates to the Pilotage
5 Authority from his own private physician, and the
6 examinations I believe on the 11th of July, 1962,
7 and the 28th of August, 1962, were conducted by a
8 physician from the Department of Health and Welfare.

9 A. The one of the 11th of July, 1962,
10 the report of the doctor completed by the words
11 "fit to return to work,"

12 Q. Yes. This is the final conclusion
13 of the doctor, but with the Commission's permission
14 I should like to file the whole report as it is
15 difficult to appreciate the extent to which the
16 pilot would have been apt to return to work without
17 reading the rest of the report.

18 Would there be any objection to
19 filing the medical report in question, dated July 11,
20 1962?

21 A. Except that the name is in the
22 report, and we have not mentioned names in evidence.

23 • THE CHAIRMAN: So we will do as we
24 did yesterday, we will file this under "Confidential".
25 However, it can be consulted by the lawyers.

26 -

27 -

28 -

29 -

30 -



1 MR. JACQUES: Thank you, my lord,
2 and this will be Exhibit 1314.

3 ---EXHIBIT NO. 1314: Medical Report dated
4 July 11th, 1962.

5 MR. JACQUES:

6 Q. Now the medical report of August
7 29th, 1962, was read in part in the evidence while
8 the Commission sat in Quebec, and I refer to pages
9 7326 to 7328 of Volume 61 of the English text. I
10 wonder if you would have that report, because I
11 believe that the whole report was not read into the
12 record.

13 A. The date again, Mr. Jacques?

14 Q. August 29th, 1962, and it seems to
15 be in the form of a letter addressed by Dr. J. M.
16 Couillard to Captain Henri Allard.

17 A. We do not seem to be able to find a
18 copy of that, Mr. Jacques, but is the part that is
19 missing, as you recall -- does this refer to or
20 make a statement that the best treatment for this
21 man is to return him to piloting?

22 Q. It might be, sir, but then I am not
23 sure.

24 A. Well, we have a bundle of copies of
25 documents here which are said to be the complete
26 documents from Quebec Office. But this particular
27 certificate we do not seem to be able to find. But
28 we do recall seeing it and this is how it finished --
29 that the best treatment for this man was to put him
30 back on piloting. If the Commission wishes to



1 have a copy of this certificate a copy could no doubt
2 be obtained from the doctor who issued it.

3 Q. Now, sir, I am instructed that there
4 might have been confusion when Mr. Maheux gave evidence,
5 although his evidence is quite clear and both the
6 French text and the English text agree in a reference
7 made to a report dated 29th August, 1962, issued by
8 Dr. J. M. Couillard. But I am instructed that
9 particular date might be the date of another report
10 issued by the private physician of the pilot from
11 Mastar Hospital.

12 A. We cannot find another certificate
13 from the National Health and Welfare doctor except
14 that.

15 Q. Except that one; would you check
16 with the local office in Quebec, because this was
17 read into the record? It was addressed to Captain
18 Allard who was then local supervisor in Quebec.

19 A. Yes, sir, we will do that.

20 Q. Would you also have copies of the
21 medical certificates supplied by the pilot himself
22 -- certificates from his own physician or photo
23 copies thereof?

24 A. Yes. I may say that the meat of
25 this thing is that we definitely did not have any
26 reason given us by which we could say that this pilot
27 was not fit to pilot.

28 Q. Oh, I am quite willing to admit that
29 this is your opinion, or was your opinion, but it
30 might not necessarily be the proper opinion.



1 THE CHAIRMAN: In other words, the
2 right of the pilot to pilot is a right that he has
3 and you cannot take it away from him without due
4 reasons?

5 THE WITNESS: Without very strong
6 reasons, yes, my lord.

7 THE CHAIRMAN: If it is only a
8 suspicion the only thing you can do is to make an
9 inquiry, and unless the inquiry points out his inability
10 ity you cannot withdraw his licence?

11 THE WITNESS: This is correct --
12 unless we have real, unless we know that this would
13 not be in the public interest. I imagine we could
14 override anything then, if we were sure that it was
15 not safe to allow this man to pilot. But when we
16 get a medical certificate saying in one that he is
17 fit to pilot and in another that the best way to
18 cure him is to have him back on piloting, it is hard
19 to have any grounds on which to say that he is not
20 fit to pilot.

21 In other words, in the last instance
22 the report indicated to us that the, shall I say,
23 infirmity from which the man was suffering was not
24 such as would impair his ability to pilot.

25 THE CHAIRMAN: Correct.

26 MR. BRISSET: Pilotage can be a
27 cure for certain ills; is that what you mean?

28 THE WITNESS: This is what the
29 doctor said, Mr. Brisset.

30 We will try to get these documents



1 that you have asked for.

2 MR. JACQUES:

3 Q. Thank you. Would you agree with
4 the pilots when they say that their work is one which
5 requires constant attention?

6 A. In the river?

7 Q. In the river?

8 A. Oh, definitely.

9 Q. You do?

10 A. There are some stretches of the river
11 where the pilot might take his attention away for a
12 while, but certainly there are no such places
13 between Montreal and Quebec. This depends upon the
14 particular kind of district that it is and the par-
15 ticular characteristics.

16 Q. Let us restrict ourselves to the
17 Quebec District. There are stretches in the Quebec
18 District where the pilot cannot afford to let his
19 attention relax?

20 A. Oh, yes.

21 Q. We have all agreed on that. Do
22 you agree also that the length of time that the pilot
23 must sustain his attention constantly might be for
24 several hours?

25 A. This is asking me a question . . .
26 I would doubt if this would be sustained close atten-
27 tion for several hours.

28 Q. You are slightly familiar with the
29 St. Lawrence River from Quebec down, I believe. So
30 a pilot boards a ship in Quebec in low visibility,



1 either through rain, haze or snow.

2 A. Of course, in low visibility or
3 any difficult circumstances the pilot cannot relax
4 for an instant.

5 Q. The pilot surely would not be able
6 to relax until he has passed Banc Brûlé?

7 A. I am not sure of the geography there.

8 Q. Let us say ---

9 A. Mr. Jacques, I would not want to
10 speak as a pilot on this.

11 Q. No, but you are a captain.

12 A. I could take a ship down there with
13 the aid of a chart.

14 Q. And you have had sea experience?

15 A. Yes.

16 Q. You have stood watches on the bridge?

17 A. Yes

18 Q. You have plied waters where the
19 traffic is dense, such as the English Channel; is
20 that correct?

21 A. Oh, yes.

22 Q. Therefore you may have an idea of
23 the tension under which a man conning a ship in
24 restricted waters and low visibility might be?

25 A. Correct.

26 Q. I submit that the work of a pilot
27 is one particularly where a man must be able to be
28 under severe tension without impairing his ability
29 to pilot?

30 A. Correct.



1 Q. And I submit to you that when a man
2 is for reasons other than pilotage under severe
3 tension, severe stress, to such an extent that he is
4 put under medical care -- I submit to you that that
5 man is not qualified to pilot.

6 A. This would be a matter of opinion
7 and the extent to which the man's ability is impaired.
8 We could certainly not prevent the man from piloting
9 unless we had a doctor's certificate to say that he
10 was not fit to pilot. This we did not have.

11 THE CHAIRMAN: And the trouble is
12 that the doctor does not know what are the require-
13 ments of pilotage?

14 MR. JACQUES:

15 Q. I was just going to ask this question,
16 my lord -- whether the doctor who examined (and I
17 mean the government physician, not the private
18 physician) the government physician who examined
19 this gentleman twice was instructed on the type of
20 work that the man was doing?

21 A. I would say, Mr. Jacques, that the
22 physician who examined this pilot was quite familiar
23 with conditions on the St. Lawrence River. He
24 lived in Quebec. He was a Quebec doctor and he also
25 had had previous dealings with pilots. There was
26 no reason to believe that he did not understand what
27 he was talking about.

28 MR. JACQUES: Thank you.

29 THE CHAIRMAN: So this raises a
30 very serious question. I feel that the Authority is



1 really in a difficult situation, on the spot, when
2 it has to decide whether a pilot is fit to discharge
3 his job -- physically or mentally fit. Of course,
4 the Authority has to rely on some evidence, something,
5 on some report or some experience of some sort.

6 Maybe a solution would be to have a
7 board of officers, medical officers. But this is
8 a serious problem.

9
10 CROSS-EXAMINATION BY MR. BRISSET:

11 Q. Captain Slocombe, you told us that
12 you had on file a report dated July 11th, 1962, by
13 a doctor who examined this pilot and recommended that
14 possibly the best cure for his ailments was to allow
15 him to pilot again?

16 A. No, this is not quite right.

17 MR. JACQUES: Return to work.

18 MR. BRISSET:

19 Q. Return to work; I am sorry.

20 A. The one you are speaking of finished
21 off that he was fit to return to work.

22 Q. That is the report of July 11th?

23 A. It has been filed.

24 Q. Which has been filed. Now was your
25 department aware, captain, -- and particularly the
26 Superintendent of Pilots in Quebec -- that between
27 August 3rd and August 25th of the same year -- that
28 is, after this report of July 11th -- this same pilot
29 went back for treatment at the Mastai Sanitarium?

30 A. As far as we know, no.



1 Q. When you say as far as you know, do
2 you mean as far as the Department in Ottawa knew?

3 A. Yes.

4 Q. That is what you want to convey?

5 A. Even if we had known, Mr. Brisset,
6 the fact that the man was going to a psychiatrist --
7 a lot of people go to psychiatrists nowadays.

8 MR. LALONDE: Even lawyers.

9 THE WITNESS: When they are not
10 impaired in any way. They are just disturbed. We
11 would have no reason to take the fact of knowing
12 that he was under treatment as an indication that he
13 was not fit to pilot, unless we had a report to that
14 effect.

15 MR. LALONDE: It is almost like
16 going to church nowadays.

17 MR. BRISSET:

18 Q. The fact remains, Captain, that
19 during that period extending from the 3rd August to
20 the 25th this particular pilot was not piloting to
21 your knowledge and to the knowledge of your department
22 while he was undergoing his treatment?

23 A. Could I have those dates again, Mr.
24 Brisset?

25 Q. Between August 3rd and August 25th,
26 1962, the man was not piloting while he was undergoing
27 treatment at the Mastai Sanitarium?

28 A. We have no report to this effect,
29 Mr. Brisset, but if he was off he was not off by
30 order from headquarters. He may have been off taking



1 sick leave.

2 There is no provision in the Quebec
3 bylaws for sick leave. There is no mention of it,
4 because ostensibly each pilot is paid the money he
5 earns and any sick leave pay there might be is
6 between him and his association. But we have no
7 record on our files of having been informed that he
8 was off.

9 Q. When you say you have no record in
10 your file, you mean in your file in Ottawa?

11 A. In our file in Ottawa, yes.

12 Q. Consequently if he was off duty
13 during that period because he was following treatment
14 at the Mastai Institute or Sanitarium that would
15 only be known to your local superintendent?

16 A. This is correct.

17 Q. He did not report to you what was
18 going on in that report?

19 A. As far as we could find on the file,
20 no, we did not have reports on that. According to
21 a letter we have here he was working on July 21st
22 and 27th.

23 Q. But not in August; that is what we
24 are dealing with.

25 A. We do not know.

26 Q. Now assuming, Captain Slocombe, this
27 particular man was under treatment from the 3rd
28 August to the 25th August at the Mastai Sanitarium,
29 and it is to the knowledge of your local superintendent
30 in Quebec, what, in accordance with the practice



1 followed by the department, should have been done by
2 a local superintendent before putting this man back
3 on the assignment list on his return on the 25th?

4 A. Well, if it were any other sickness
5 than mental sickness I would say definitely he should
6 have had a medical certificate -- but perhaps he
7 should have had a medical certificate anyway. I
8 do not know whether he did or not.

9 Q. In other words, the local superin-
10 tendent should not have put this man back on the
11 assignment list on August 25th knowing that he had
12 been under treatment from the 3rd to the 25th without
13 obtaining a medical certificate; is that your answer?

14 A. I would say it would have been
15 wiser for him to have required a medical certificate.

16 Q. In this case as far as your record
17 reveals there was no medical certificate obtained on
18 that day, the 25th, when he was re-assigned?

19 A. If there was we have not a copy of it.

20 Q. Now let us assume that there was
21 not and that this man, as you know, was assigned to
22 his first ship on the day of his return, August 25th,
23 which ship a few minutes after he boarded her grounded
24 across the harbour in Quebec, a very serious grounding.
25 I am referring to the OAK HILL ship. Taking this
26 into account would you consider that there would
27 be reasons to put in doubt the capacity of this man
28 to pilot?

29 A. Oh, yes. After the fact?

30 Q. After the fact, yes.



1 A. At that time, yes.

2 Q. You would. Having this doubt in
3 mind what do you consider the Pilotage Authority
4 should have done?

5 A. ~~No~~, I am sorry; we did not have
6 enough evidence from that first casualty to say that
7 that man was not fit to pilot.

8 Q. I see. The man had been under
9 treatment from August 3rd to August 25th. On August
10 25th, on his first ship a few minutes after he boards
11 her on a clear night he grounds the ship on the south
12 shore of the river completely out of the channel.
13 No explanation for such an accident and still you
14 think that you have no reason to put in doubt the
15 mental or physical capacity of that man to pilot a
16 ship?

17 A. The answer is there, Mr. Brisset,
18 that we ordered an investigation right away, but as
19 usual pending an investigation we do not take a pilot
20 off the work.

21 Q. In spite of what then, I suppose,
22 must have become known to you of what had been the
23 circumstances of this pilot during the preceding few
24 weeks, you still considered that you could assign him
25 to another ship?

26 A. We felt we had to treat him the same
27 as usual, that we could not take him off work until
28 we had proved that he was not fit.

29 Q. What measures did you take at that
30 time to investigate what had happened on board the



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, ex-ex
(Brisset)

17971

1 OAK HILL to find out what symptoms this pilot had
2 shown or exhibited to account for his accident?

3 A. Well, we instituted an investigation
4 under Section 579 of the Canada Shipping Act.

5 Q. When did you start this investiga-
6 tion?

7 A. The 6th September.

8 Q. Is there any reason why nobody was
9 sent on board this OAK HILL vessel right after the
10 casualty to check on the condition of that pilot in
11 the light of his previous record?

12
13
14 -

15
16
17
18 -

19
20
21 -

22
23
24 -

25
26
27
28
29
30



1 A. The evidence is, Mr. Brisset, the
2 District Supervisor went on board half an hour or so
3 after he was called, after he was aware of the
4 grounding.

5 Q. Which means in fact he went aboard
6 some hours after the casualty?

7 A. About an hour and a half.

8 Q. Now, did the local superintendent
9 carry out any immediate investigation on board by
10 way of questioning the crew as to the condition of
11 the pilot?

12 A. This was his purpose for going
13 aboard, Mr. Brisset, so I assume he did.

14 Q. Have you any evidence on your file
15 that he did and reported to you about his findings?

16 A. In the evidence before the Commis-
17 sion ---

18 Q. We know what is in the evidence,
19 Captain Slocombe. I was asking whether in your
20 record in Ottawa there is any indication that the
21 Superintendent of Pilots in Quebec after boarding the
22 OAK HILL an hour and a half after the collision
23 communicated with your office in Ottawa to tell you
24 what his findings were or what his conclusions were?
25 We are on the 25th of August, 1962. Perhaps you
26 could look up your records for the 25th, 26th, 27th,
27 28th of August, 1962, and see whether you have any
28 report from the local superintendent.

29 A. We had a teletype from the Regional
30 Superintendent at Montreal.



1 Q. Which said what?

2 A. That the following was received from
3 QBC marine radio at 260300 GMT SS OAK HILL reports
4 aground adjacent to Quebec drydock requesting
5 tug immediately. Permission to report to Lloyds
6 granted, and it gives details of the names, the
7 nationality, tonnage, pilot's name, the cause of the
8 accident and there it is "Unknown as yet", the
9 agent's name and the casualties to life, none, and
10 the time was 2300 Eastern daylight saving time on
11 August 25. The exact position of the grounding
12 was near buoy 87 $\frac{1}{2}$ B, and he adds a note, "District
13 Supervisor of Pilots at Quebec has been requested
14 investigate for me and report."

15 Q. That was your first notification of
16 this grounding giving you simply the position and
17 the name and the time?

18 A. It is possible there might be some-
19 thing else on another file which we have not with us.
20 If there is a casualty file there may be possibly
21 something on that.

22 Q. At all events, I want to bring your
23 attention to the fact that the Regional Superintendent
24 indicated in his message to you that the local
25 supervisor or superintendent was going to investigate.
26 Now, following this message have you any record of
27 a report of this investigation which was to be
28 carried out by the local superintendent, or did you
29 bother to obtain any report, if I may put it ---

30 A. We certainly would have bothered to



1 find out what happened, Mr. Brisset. We haven't it
2 here.

3 Q. We have it in evidence, Captain
4 Slocombe, that this particular pilot was not reassigned
5 until the 29th of August when he was put down on the
6 tour de role. Who took that responsibility, and
7 were you aware that this was being done, or was it
8 done under your department's instructions, or was it
9 solely done by the local superintendent without
10 consultation with his superiors?

11 A. He would have allowed the man to go
12 back on the tour de role unless he was instructed
13 otherwise.

14 Q. I take it you issued no instructions
15 to the contrary?

16 A. Apparently not.

17 THE CHAIRMAN: Is this in accordance
18 with bylaw 23, paragraph 2, which says the pilot shall
19 not be reassigned to duty until the Authority has
20 decided the pilot is fit to perform his duties. The
21 local man can take anybody out of the tour de role
22 but cannot put him back without the permission of
23 the Authority.

24 THE WITNESS: Is this the one that
25 refers to drinking?

26 THE CHAIRMAN: No, unfitness for
27 duty. "When at any time the superintendent has
28 reason to believe that a pilot's fitness^{for} duty has
29 become impaired by reason of defective eyesight or
30 hearing or by reason of any other physical or mental



1 disability he may, with the approval of the Authority,
2 order the pilot to undergo an examination or examina-
3 tions by medical officers appointed by the Authority,
4 and the pilot shall not be assigned to duty until
5 the Authority is satisfied that the pilot is fit to
6 perform his duty."

7 Therefore the superintendent had
8 no authority to put him back on the tour de role once
9 he has been taken out of the tour de role?

10 THE WITNESS: I am informed he was
11 not taken off at all.

12 THE CHAIRMAN: He was not taken off?

13 THE WITNESS: No.

14 Q. According to you he was not taken off
15 at all after the casualty of August 25th?

16 A. He was not taken off by order.

17 Q. But if he were taken off, assuming
18 that he was taken off by the local superintendent
19 who had suspicions about his physical condition,
20 isn't it correct that in such a case he could not be
21 put back on the assignment list without a direct
22 order from Ottawa under Section 23, subsection 2,
23 which his lordship has just read to you?

24 A. That is correct.

25 Q. In this particular case there was
26 no instruction or order from your department in Ottawa
27 to the local superintendent to the effect that this
28 particular pilot should be put back on the assignment
29 list according to your records?

30 A. This is correct.



1 Q. Now, captain, you are of course
2 aware of the second incident or casualty on September 5,
3 when the same pilot, a few minutes after boarding the
4 vessel CONTINENTAL PIONEER at Escoumains put her
5 ashore in Anse aux Basques -- I forget the time --
6 some time during the night. It was again a clear
7 night. And without any apparent justification?

8 A. Yes.

9 Q. Now, that casualty was reported to
10 you, I assume? Am I correct?

A. Yes.

11 Q. After the second casualty did you
12 begin to have suspicions about the mental or physical
13 capacity of that pilot for the first time or were you
14 still convinced that until you had gone into a very
15 thorough investigation you had no reason to believe
16 there was something wrong?

17 A. No, we felt that this second occasion
18 certainly justified our taking him off the list no
19 matter what the consequence.

20 Q. In other words, it takes two serious
21 casualties before you begin to have doubts in Ottawa?

22 A. No, sir, I don't agree to that. The
23 first casualty might have been something quite dif-
24 ferent which would not -- as far as we knew, which
25 was not a permanent disability in any way.

26 Q. Now, after the second casualty in
27 order to justify the suspicions that then began to
28 rise in your minds about the capabilities of the
29 pilot, mental or physical, I take it you arranged
30 for a medical examination. Did you or did you not?



1 A. We instituted it. This investigation
2 under Section 579 had already been ordered, and so as
3 it turned out the two casualties were investigated at
4 the same time. In the meantime we did not permit
5 him to pilot.

6 Q. Did you also arrange for a medical
7 examination of this pilot?

8 A. We certainly did not allow him to
9 pilot again until we did have a medical certificate.

10 Q. I will repeat my question. Did you
11 arrange to have a medical examination to determine
12 what possibly could have been wrong with this pilot
13 since you had suspicions by then?

14 A. Well, at the moment we can't say
15 whether we ordered him to undergo a medical examination
16 or not.

17 Q. You cannot?

18 A. But he was not piloting, and the
19 investigation was held and the results of the investi-
20 gation were that he was to be off on suspension for
21 an indefinite period, and he was not to be put on
22 again until he was declared medically fit. This has
23 the same effect, Mr. Brisset. It was up to him to
24 produce a medical certificate to say that he was
25 fit after that.

26 Q. Do you have in your file any medical
27 certificate except that of July 11, 1962? If so, I
28 would ask you to produce it.

29 A. We will search for it and if we can
30 find one, we will produce it. We have not found one



1 yet.

2 Q. Now, captain, your evidence leads
3 me to believe that you did not obtain a medical
4 certificate after the second casualty?

5 A. No, the man is still not piloting.

6 Q. And I believe as the evidence shows
7 there was a letter sent to him to the effect that he
8 would not be reinstated until he produced a medical
9 certificate to the effect that he was fit mentally
10 and physically to resume pilotage?

11 A. Correct.

12 Q. Now, not having any medical certifi-
13 cate, why did you reach the conclusion that he was not
14 mentally or physically fit? Was it simply because
15 he had had two accidents?

16 A. No, it was because the investigation
17 showed that it would not be safe to permit him to
18 pilot until he had been declared fit.

19 Q. But why do you say the investigation
20 reveals it was not safe? Was it because simply he
21 had put two ships aground or because there were
22 symptoms indicating there was something wrong with
23 his fitness and condition?

24 A. There was what?

25 Q. Something wrong with his fitness
26 physically or mentally?

27 A. The investigation indicated there
28 was something wrong.

29 Q. What were the symptoms that this
30 investigation revealed as indicating something wrong



1 with either his mental or physical fitness?

2 A. I haven't read the evidence over,
3 but as I recall -- there was such a close similarity
4 to the first casualty that it was taken as sufficient
5 to indicate that there was something wrong. A man
6 might have a temporary blackout, you might call it,
7 once, but if he had it twice there is obviously
8 some reason to justify refusing to allow a man to
9 pilot.

10 Q. Am I right in assuming as far as
11 the first casualty was concerned you had come to the
12 conclusion either from the report of the superinten-
13 dent, Quebec, or otherwise that the man had had a
14 mental blackout?

15 A. As I recall we didn't know what had
16 happened; why he had acted as he did.

17 Q. You didn't bother to find out im-
18 mediately after the collision in the light of the
19 strange circumstances what could have been wrong?

20 A. We tried to find out. It was not a
21 case of not bothering to find out. It is a matter
22 of finding out and having what is considered to be
23 legal proof of a certain circumstance.

24 Q. After this first casualty had been
25 reported to you, did you bother to check on the
26 previous record of that pilot over the last previous
27 few years?

28 A. I resent and I object to this term,
29 did I bother to do this.

30 Q. Well, then did you, then?



1 A. The Department is always -- always
2 does (do to the best of its ability what it is
3 supposed to do, and in this case we obviously did ask
4 what was the situation with this pilot.

5 Q. So as early as the 25th of August,
6 or 26th, what did you know exactly?

7 A. You are asking me to give this out
8 of the air?

9 Q. Well, from your record. What did
10 you know?

11 A. Well, we would have to check. On
12 what date do you speak of?

13 Q. After the OAK HILL casualty on
14 August 25th, say, during that week between August
15 25th and August 30th?

16 A. We would like to get this other
17 file, my lord, before trying to answer these ques-
18 tions just out of our heads. We could get it no
19 doubt in a short time.

20 THE CHAIRMAN: You have to get it
21 from the Connor Building?

22 THE WITNESS: Yes, sir.

23 THE CHAIRMAN: And then you have to
24 peruse it?

25 THE WITNESS: Yes.

26 MR. BRISSET: I can suspend until
27 after lunch, my lord, and go on with other questions.

28 THE WITNESS: I may say that the
29 Order of the Minister of Transport suspending the
30 pilot's licence contains these words: "I find that



1 Pilot Blank was on both occasions unfit to discharge
2 his duties by reason of some unexplained physical
3 or mental impairment."

4 Q. What are you reading from now?

5 A. I am reading from the document
6 signed by the Minister of Transport as Pilotage
7 Authority suspending the pilot's licence.

8 Q. Dated as of what date?

9 A. Dated the 31st of October, 1962.
10 This was following the investigation.

11 Q. And that knowledge was acquired by
12 the Minister and consequently by the department only
13 after what?

14 A. After the investigation under
15 Section 579.

16 Q. Which took place when?

17 A. Started on September 6th. The
18 hearings started on the 13th of September.

19 Q. Am I right then in assuming until
20 September 6th when this investigation commenced
21 nobody in charge of the pilotage service had any
22 reason to suspect that there was something wrong
23 with this pilot?

24 A. Oh, yes, we certainly had reason to
25 suspect then, and he was not piloting.

26 Q. What I am trying to find out is when
27 these suspicions started to come into the minds of
28 those responsible for the pilotage services?

29 A. Well, the suspicion was certainly
30 there after the second casualty. There may have been



1 a faint suspicion after the first one, but we had
2 nothing with which to back it up.

3 Q. All right, we have this again, that
4 after the first casualty there was a faint suspicion
5 and after the second casualty there was a strong
6 suspicion. Is that putting it fairly?

7 A. Yes, and after the second casualty
8 the suspicion was strong enough to justify our taking
9 the man off the list.

10 Q. I would like, captain, to refer you
11 to Section 19 and Section 23 of the Quebec general
12 bylaw, particularly to subsection 4 of Section 19,
13 which says: "Where the superintendent believes
14 on reasonable grounds that a pilot has been under
15 the influence of intoxicating liquor or narcotic
16 drugs while on duty, he may remove the pilot's name
17 from the assign^{ment}- list and shall make a full investi-
18 gation into the matter and submit a report thereon
19 to the Authority."

20 Section 23, subsection 2, "When at
21 any time the superintendent has reason to believe that
22 a pilot's fitness for duty has become impaired by
23 reason of physical or mental disability, he may, with
24 the approval of the Authority, order the pilot to
25 undergo an examination" and so forth "and the pilot
26 shall not be assigned to duty until the Authority is
27 satisfied that the pilot is fit to perform his duty."

28 Now, according to the policy
29 followed by the department, what does constitute
30 "reasonable grounds"? May I suggest to you then



1 that relying on your previous evidence you must have
2 a strong suspicion, but a faint suspicion is not
3 enough?

4 A. This is correct.

5 Q. That is why nothing was done after
6 the OAK HILL casualty because there was only faint
7 suspicion at the time?

8 A. There was no explanation, and we
9 couldn't say that this man was not fit to pilot.

10 MR. JACQUES: After the OAK HILL?

11 THE WITNESS: After the OAK HILL.

12 Q. But wouldn't it have been reasonable
13 to try and find out right away?

14 A. We did.

15 Q. Well, you did on the 6th of September
16 after the second casualty.

17 A. Well, we were in the position we had
18 to investigate this matter, but in the meantime we
19 had not enough reason to take him off the list. I
20 appreciate that it is a pity that we didn't, and if
21 there were a different relationship between the
22 Pilotage Authority and pilots, which we sincerely hope
23 will come out of this Royal Commission, it would have
24 been possible to take the man off the list on the
25 slightest suspicion, or as I believe they do in the
26 railroads, they take the man off duty as soon as he
27 has had a casualty, no matter what happens.

28 THE CHAIRMAN: Do you know what
29 about aircraft?

30 THE WITNESS: No, I don't know.



1 THE CHAIRMAN: There must be some
2 regulations about aircraft.

3 THE WITNESS: I do have this in the
4 office, my lord, but I can't remember exactly what
5 they say now.

6 THE CHAIRMAN: I am putting the
7 question there so that we can check it when we come to
8 it.

9 MR. MCGILLIVRAY: There is no
10 provision in the Air regulations, but the practice
11 among the air lines is, of course, that if he sur-
12 vives, he is out of service until an answer is given.
13 Until an answer is found.

14 MR. LALONDE: May I recall, my lord,
15 the collective agreement of air lines, employees and
16 crews, has been filed. It might be in that.

17 THE WITNESS: Perhaps we take a
18 defeatist attitude in this matter of taking action
19 with regard to pilots, but we have had so much diffi-
20 culty in defending any action we took in the matter
21 of a penalty, or in this case preventing a man from
22 working a ship since the Bill of Rights -- apparently
23 the words of the Act don't mean anything any more.
24 You have to read the Bill of Rights in conjunction
25 with it, and this is a legal matter I am not in a
26 position to talk about. But certainly this had an
27 effect on me of making me very reluctant to take any
28 action with regard to a pilot in the way of any
29 punitive action, or in this case, preventing him
30 from working.



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Sloccombe, cr-ex 17985
(Brisset)

1 Q. In this case, coming back to the
2 casualty of August 25th, the OAK HILL casualty,
3 realizing there appeared to be no explanations for
4 this type of casualty except a mental blackout which
5 you have mentioned, realizing that the man had been
6 under treatment from the 3rd to the 25th of August at
7 the Mastai Institute where I assume you know what
8 kind of ailments are treated?

9 A. I don't know that we knew this at
10 the time. I am not saying that we did or did not,
11 but I don't know now that we knew at that time or
12 whether we learned it.

13
14
15 -
16
17
18
19 -
20
21
22
23 -
24
25
26
27 -
28
29
30



1 A. I am not saying that we did not.
2 I do not know now that we knew at that time. We
3 learned it at some time.

4 MR. JACQUES: But your local supervisor
5 was aware of that -- so he stated in his evidence.

6 MR. BRISSET:

7 Q. Knowing also the past record of that
8 pilot, which undoubtedly you had in your file, in-
9 cluding previous treatments in 1961 at the same
10 institute or sanitarium, knowing the number of times
11 he had been suspended during the previous few months;
12 knowing all that do you still maintain that you could
13 only have had faint suspicions that there was some-
14 thing wrong with this man?

15 A. I still maintain that we did not
16 have sufficient evidence on which we could have taken
17 him off the list.

18 Q. Following your -- I assume -- more
19 thorough investigation in September, were you able
20 to find out exactly what was wrong with the man at
21 the time he had those two accidents?

22 A. No. According to the Minister's
23 Order there it says that it is unexplained.

24 Q. In other words, you were not able
25 to find out in spite of all the means at your disposal
26 that this man might have been under the influence
27 of drugs, either through recommendation or otherwise,
28 when he had those two accidents? Is that what you
29 want to convey to us?

30 A. All I can say is that the investigation



1 did not produce anything on which we could base a
2 statement as to what had been wrong with him.

3 Q. How far did you go in your investiga-
4 tion, captain, to find out what was the physical or
5 mental condition of this man at the time of his
6 accidents? What avenues did you explore?

7 A. I would have to look this up. I do
8 not know. It was not I who held this investigation
9 and I would have to read through the file again and
10 try to answer that question. But we explored enough
11 to say that he should not pilot, or at least to
12 the Pilotage Authority that the licence be suspended
13 until he could show himself to be fit.

14 Q. I would ask you to look over the
15 file during the luncheon adjournment and let me know
16 whether you will, from your file and the investigation
17 carried on, confirm or not confirm the statement made
18 by the Superintendent of Pilots before this Commission,
19 that in his personal opinion from what he found the
20 man was under the influence of drugs? Would you
21 do that?

22 A. The second or the first one?

23 Q. The two.

24 A. Fine.

25 Q. Will you?

26 THE CHAIRMAN: We will adjourn now
27 for about ten minutes.

28 ---Short recess.
29
30



CROSS-EXAMINATION BY MR. LALONDE:

Q. I have no questions about the accident itself, Captain; it is just the report, the letter from the Minister you read about the suspension. Would you mind reading what were the exact words used as far as the so-called "indefinite suspension" was concerned?

A. It is entitled "Order of the Minister of Transport".

Q. Yes?

A. "Upon the report of Captain G. W. R. Graves of inquiries held by him into the conduct of Pilot (Blank), a licensed pilot of the Pilotage District of Quebec, while piloting the SS OAK HILL in the River St. Lawrence on the 25th August, 1962, and the SS CONTINENTAL PIONEER in the River St. Lawrence on the 5th September, 1962, I find that Pilot (Blank) was on both occasions unfit to discharge his duties by reason of some unexplained physical or mental impairment.

"I direct that the pilot's licence in the name of the said (Blank) be suspended indefinitely."

Q. That is all?

A. Dated at Ottawa this 21st ---

Q. So we have here an order which is in effect for an indefinite suspension without any



1 further qualification in the order of the Authority.
2 Is there any particular reason why you would suspend
3 licences for indefinite periods, or is that a new
4 policy of the Department, or has it been a policy
5 before?

6 A. As far as I am aware the occasion
7 did not arise before.

8 Q. I see.

9 A. But I think that there might have been
10 added in there "until" -- "and not to be reissued
11 until so-and-so".

12 Q. Yes, but it has not been.

13 A. It was not in that document, no.

14 Q. I see, and I notice that Section 336
15 says: "The pilot who has not used his licence for
16 a period of two years shall forfeit his licence" --
17 and that is automatic by law. The Section adds
18 that the Pilotage Authority, if satisfied that the
19 former holder is qualified to hold a licence, may
20 re-issue it to him.

21 What I was looking for, however,
22 was another section which provides that the Minister
23 may withdraw a licence. If I remember well it states
24 that it is for a definite period.

25 THE SECRETARY: 370.

26 MR. JACQUES: To my knowledge there
27 is no section of the law limiting the time of the
28 suspension and fixing a time of suspension.

29 MR. LALONDE: I will find out
30 about that later on anyway.



1 Q. In effect this means that the pilot
2 is not replaced on the tour-de-rôle; is that the
3 case? That is, the strength in the district does
4 not go down, let us say, to 78 where it was 79 before
5 officially for the calculation of effective pilots,
6 or whatever you call them. For purposes of record
7 you still have 79 pilots in the district, although
8 one is suspended indefinitely; is that not correct?

9 A. This is something that had not occurred
10 to us, Mr. Lalonde. I think a special notice would
11 have to be taken of this particular circumstance in
12 this case in any such considerations.

13 Q. Well, this case has occurred now
14 for the last two years. Is it not a fact that
15 for all practical purposes this pilot has still been
16 considered as a member of the pilotage force in the
17 district?

18 A. No. As Captain Jones told me,
19 this is the whole point of the effective pilot
20 concept -- that he would not be counted in the
21 calculation.

22 Q. He would not be counted. Let us
23 rule out the effective pilot problem for the time
24 being. We will come to that in due time.

25 A. Thank you.

26 Q. The point I am raising is just that
27 when this pilot was suspended indefinitely another
28 pilot was not employed in the district to replace
29 him; is that not correct?

30 A. This is correct.



1 Q. This is it. You end up with a
2 situation where the district is deprived of its nor-
3 mal strength of pilots for an indefinite period and
4 a man is not replaced by another pilot?

5 A. It would be, unless representations
6 were made and the Pilotage Authority agreed to take
7 on another pilot to take care of this situation.

8 Q. In this particular case is the pilot
9 still under indefinite suspension?

10 A. Yes.

11 Q. Yes?

12 A. Oh, excuse me. I am told that the
13 cancellation has now been effected, as you probably
14 know.

15 MR. LALONDE: I knew.

16
17 BY MR. JACQUES:

18 Q. Why was the licence not withdrawn
19 instead of being cancelled for an indefinite period --
20 suspended or cancelled?

21 A. Will you ask the question again?

22 Q. Yes. Why was not the licence
23 cancelled instead of being suspended for an indefinite
24 period?

25 A. I think this was because the pilot
26 had not given evidence himself in the investigation.

27
28 BY MR. MCGILLIVRAY:

29 Q. Was it not because that is what the
30 Commissioner who held an inquiry into the matter



1 recommended to the Pilotage Authority?

2 A. This was the recommendation that I
3 have here by counsel to the Commissioner. I have
4 not got the Commissioner's final report. I think
5 that it is quite relevant to quote here from counsel's
6 statement or advice in summing up. He was summing
7 up the case and he said:

8 "What we have heard here today leaves
9 no doubt that this ship went aground while
10 Pilot (Blank) was in charge, and approximately
11 fourteen or fifteen minutes after he took
12 charge off Les Escoumains. The orders
13 were given by the pilot and from the
14 orders we have had described here today
15 it is clear to us that it was something
16 not quite rational.

17 "One of the first things you inquire
18 in a case like this is the influence of
19 alcohol and it is clear to me that there
20 is nothing here to indicate that the
21 pilot was under the influence of alcohol.
22 He did not find any difficulty in climbing
23 the pilot ladder. He did not slur his
24 speech. He did not look drunk. I can
25 find nothing to indicate that he was under
26 the influence of alcohol. However, it
27 seems possible that there was something
28 physically wrong with him which caused
29 his deep sleep after he had put the
30 vessel on the rocks, when one expects a



1 normal person to be very keyed up and
2 quite unable to sleep.

3 "So we have a situation here where
4 I do not see that we can learn anything more
5 by hearing the other witnesses. I think
6 that we are completely in doubt as to what
7 was the reason for the pilot's actions, and
8 I do not think that we will ever learn it
9 without hearing the pilot himself, and
10 possibly not then.

11 "I would suggest that since the
12 hearing could not be properly concluded
13 without the evidence of the pilot -- we
14 know that the pilot is in the hospital;
15 we do not know when he will be able to
16 give his evidence -- I would suggest that
17 the hearing be concluded at this time and
18 that you should make your report to the
19 Minister as you are required to do indi-
20 cating that it is impossible to explain
21 the reason for the orders given by the
22 pilot.

23 "It is an accepted fact that cer-
24 tainly not today and possibly not for
25 some time is he capable of undertaking
26 pilotage duties. I would suggest that
27 your ultimate recommendation to the
28 Pilotage Authority be that this pilot's
29 licence be suspended for an indefinite
30 period, the licence to be reinstated by



1 the Pilotage Authority only after the
2 Pilotage Authority is satisfied that the
3 pilot is physically and mentally capable
4 of carrying out the duties of a pilot.
5 I think that you should also recommend to
6 the Pilotage Authority that when the
7 pilot does request his licence to be rein-
8 stated the Pilotage Authority be prepared
9 to hear his request and order such examina-
10 tion of him as is found necessary in the
11 circumstances. I suggest this rather
12 than putting a specific period of time
13 to the suspension."

14 And counsel asked counsel for the pilot if he would
15 agreed to that, and counsel did agree.

16 Q. Captain Sloccombe, although you do
17 not have the report of the Commissioner who held
18 this inquiry, is it in your recollection that he did
19 make such a recommendation in line with this eloquent
20 and well-received argument of counsel?

21 A. Yes, he did.

22 Q. Now I would like to get back to some
23 of the matters that Mr. Brisset asked you about.
24 There was the suggestion that in the department there
25 was only a slight element of doubt about this man's
26 capacity after the first grounding -- that is, the
27 OAK HILL on the 21st August -- but is it not a fact
28 that this hearing into the OAK HILL grounding which
29 was formally ordered by a written order on the 6th
30 September was in contemplation from the time that



1 you heard about the accident and that steps were being
2 taken over a period of some days to line up a person
3 to hold the hearing and that all this resulted in an
4 Order of the 6th September?

5 A. This is correct.

6 Q. So that there was not just some
7 slight doubt. The department was moving towards
8 giving the pilot his day in court to answer this
9 question of whether he was fit to pilot?

10 A. This is so, as we had been strongly
11 advised over a period of time that we must do.

12 Q. The inquiry into the OAK HILL was
13 conducted separately from the inquiry into the
14 CONTINENTAL PIONEER?

15 A. Correct.

16
17 BY MR. JACQUES:

18 Q. Did I understand right when you
19 said that in answer to a question by learned counsel,
20 after the first accident there must have been some-
21 thing more than slight suspicion in your mind as to
22 the pilot's ability to perform his duties?

23 A. There was the thought that there
24 must be something strange certainly.

25 Q. It was a strange collision, a
26 strange grounding, was it not?

27 A. But we had had many cases where we
28 had been quite certain that a man had been drunk and
29 we were not able to put him off.

30 Q. I presume that this is a matter of



1 policy which must be based on opinions from either
2 your own counsel in the department or the Department
3 of Justice?

4 A. This is correct.

5 Q. You might not be prepared to answer
6 questions on that aspect today, but would you when we
7 undertake the question of inquiries into casualties
8 prepare whatever opinions you have had from Justice
9 with respect to the OAK HILL and the CONTINENTAL
10 PIONEER incidents?

11 A. This would not be ---

12 Q. Along the same lines we have requested
13 in the case of the ARROW?

14 MR. MCGILLIVRAY: I think we can
15 say that there were no opinions received from the
16 Department of Justice.

17 MR. JACQUES:

18 Q. On the procedure to be followed --
19 that is, on the matter of authority to suspend after
20 a casualty -- surely it must have been discussed at
21 some time?

22 A. On this particular case?

23 Q. Well, whether in connection with this
24 particular case or not, from the evidence it seems to
25 have been discussed in connection with this par-
26 ticular case. I do not know. Perhaps I am wrong.

27 A. Well, I do not know that now either.
28 I do not know that now, but in the discussion of the
29 question of investigations and casualties this would
30 certainly come out -- why we do feel the way we do



1 with pilots.

2 Q. I see, and at the time of the
3 casualties, August and September, 1962, had you re-
4 ceived directions from Justice with respect to sus-
5 pension of pilots after casualties? Were you at
6 that time in possession of an opinion, if any was
7 given?

8 A. I am not able to answer that now.
9 This is out of chronology.

10 MR. JACQUES: Thank you.

11 THE CHAIRMAN: Are there any further
12 questions on this matter? If not, we shall go on.

13 COMMISSIONER SMITH: My lord, yester-
14 day I raised a question of the witness about the
15 suspension of a pilot a long way from Quebec District
16 -- at Chicago, where after some inquiry was held
17 the decision was reached that the pilot boarded the
18 ship in an inebriated condition and was suspended for
19 five days.

20 My lord, I raised the point yester-
21 day but I did not have the reference. I have it now
22 and I would like to quote it. It is at page 14,160
23 of the transcript and the evidence in connection
24 with the matter was given by Captain J. M. Watson.
25 This is what he said: "A pilot in an inebriated
26 condition taking a ship out of Chicago was suspended
27 for five days." Now what I would like to have is
28 the name of the official and the tribunal which
29 imposed that sanction.

30 THE WITNESS: This would be done



1 officially by the Deputy Minister, Mr. Smith. This
2 is a different situation. This was a salaried
3 employee of the government. The same premises
4 do not hold in this case as those that we have been
5 discussing here this morning. This was not a
6 licensed pilot. He was an employee of the Department
7 of Transport under the prevailing rate regulations.

8 MR. JACQUES:

9 Q. Under what section of the prevailing
10 rate regulations has the Deputy Minister authority
11 to suspend?

12 A. I cannot tell you, but this will be
13 coming out in another ---

14 THE CHAIRMAN: Yes, it is coming
15 out in another question, so you may take a note of
16 this instance.

17 THE WITNESS: Yes, sir; a note has
18 already been taken of it. We know the circumstances;
19 we know the case and there will be somebody from
20 Personnel Branch probably who will explain these
21 regulations at the appropriate time..

22 MR. JACQUES: I asked my question
23 in order that it be noted that we would be given
24 the section.

25 THE SECRETARY: Just for the infor-
26 mation of the parties who may be interested in the
27 evidence given by Captain Watson, my lord, it is in
28 Volume 113 given on March 11th at St. Catharines.

29 MR. JACQUES:

30 Q. Now if we may move to question 24,



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Sloccombe, dir
(Jacques)

17999

1 which reads as follows: "Details of inquiries
2 and results, if known, on pilot involved in follow-
3 ing incident of reported drunkenness: K. G. ROGENAES,
4 2nd October, 1961."
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30



1 A. The general answer to this question
2 is that on October 3, 1961, a letter of complaint
3 was received from the master of the MV K. G. ROGANAES
4 claiming that Pilot blank was under the influence
5 of intoxicating liquor when he boarded the vessel
6 on August 31, 1961, for passage from Port Alfred to
7 Quebec.

8 Q. Wasn't that letter rather from the
9 operating manager of Saguenay Shipping?

10 A. This might have been -- this note
11 might have been indicating it came from the master
12 through a letter, but it does not say so, but
13 anyhow the complaint must have come from the master
14 originally.

15 MR. LALONDE: When the witness says
16 "It must have come from the master originally", do you
17 mean to say it may have come from the master to the
18 agent and ---

19 THE WITNESS: Yes.

20 MR. LALONDE: Or whatever person?

21 THE WITNESS: Yes.

22 MR. LALONDE: You do not mean to
23 say it was necessarily made by the master to the pilot?

24 THE WITNESS: This is what I mean,
25 yes. The master may not have written directly to
26 the department, but the complaint was passed on to
27 the department.

28 Pending investigation the pilot was
29 removed from the tour de role, but was replaced after
30 the investigations officer had received assurances



1 from the pilot's counsel that affidavits were available
2 which cleared Pilot blank of the charge of insobriety
3 on the day in question.

4 Q. Now, the pilot therefore was suspended
5 from the tour de role by whom? By the local super-
6 visor or by the central Authority in Ottawa?

7 A. It was done by the local supervisor
8 possibly after telephoning Ottawa, but the action
9 would be done by the local supervisor.

10 Q. In that particular case you felt
11 you had power to suspend?

12 A. This is a case of alleged drunken-
13 ness which is covered in the bylaw.

14 Q. In the other case, in the cases of
15 the OAK HILL and -- well, let's not talk about the
16 CONTINENTAL PIONEER -- in the case of OAK HILL there
17 was no allegation of drunkenness, and therefore you
18 felt you could not use the relevant section which
19 empowers you to suspend?

20 A. That was the situation. Sworn
21 statements were received from the master and officers
22 of the K. G. ROGANAES that the pilot was drunk, and
23 these were forwarded from Trinidad.

24 Q. Let me interrupt you now. The
25 pilot was placed again on the tour de role because
26 you were assured by pilot's counsel that he was in
27 possession of affidavits to what effect?

28 A. That cleared him of this charge of
29 insobriety on the day in question.

30 Q. Did you before replacing the pilot



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocumbe, dir
(Jacques)

18002

1 on the tour de role obtain copy of the affidavits
2 of see these affidavits?

3 A. No, we did not. He said that he
4 had them. He could produce them.

5 Q. You had not read the affidavits
6 before replacing the man on the tour de role?

7 A. This is correct. You will appreciate that in a case of drunkenness in a particular
8 instance it does not necessarily affect a pilot's
9 ability to pilot the next day.

10 Q. And he was off the tour de role for
11 how many days?

12 A. I haven't got that. We can dig it
13 up, but anyhow I think you will feel it was irrelevant
14 because sworn statements to the contrary were received
15 as to the pilot's sobriety from a taxi driver,
16 a hotel owner and a hotel night watchman.

17 It was learned that the vessel was
18 due to arrive in Montreal on June 3, 1962, and it
19 was decided then to hold an investigation. Upon
20 the return of the vessel to Montreal on June 7, 1962,
21 the ship was visited by the investigations officer
22 and counsel for the department but it was then learned
23 that only one officer who was on board during the
24 vessel's previous trip had returned with the vessel,
25 and further investigation was not proceeded with.

26 Q. Why?

27 A. Because there was obviously no
28 evidence -- nobody who could be cross-examined.

29 Q. Well, you still had an officer on
30



ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slacombe, dir
(Jacques)

18003

1 board?

2 A. He may not have been one who had
3 seen him. I don't know.

4 Q. Would it appear from the file?

5 A. We have a record here he was off
6 from the 3rd of October to the 17th of October.

7 Q. The 3rd to the 17th?

8 A. Yes.

9 Q. Fourteen days?

10 A. Yes.

11 Q. Why wasn't he replaced on the tour
12 de role before that, or why was he kept off the tour
13 de role for so long if, as you say, the pilot might
14 have been fit to pilot next day even though the
15 previous day he might have been under the influence
16 of alcohol?

17 A. This was pending investigation,
18 and this man did have a record.

19 Q. Well, he might have been drunk for
20 a whole year and yet the following year he might be
21 cold sober all the time?

22 A. It seems to be inconsistent, doesn't
23 it? We act as best -- as we see fit at the time
24 against difficulties. In any case in the face of
25 these sworn statements by the taxi driver, the hotel
26 owner and a hotel night watchman, it was considered
27 that we had no case.

28 Q. Who considered that you had no case?

29 A. The department considered it had no
30 case on the advice of the legal officers of the



1 department.

2 THE CHAIRMAN: By the "department"
3 you mean the Authority?

4 THE WITNESS: Yes.

5 Q. And did you at any time read the
6 affidavits in support of the pilot's case?

7 A. We have them on file.

8 Q. You have them on file? The first
9 one, the taxi driver, what did the affidavit reveal
10 that the taxi driver knew?

11 A. It is in French. It says at the
12 end that the undersigned So-and-So chauffeur-taxi
13 certifies he conducted Blank to the dock of the
14 Saguenay terminal Port Alfred on the morning of
15 the 25th of August last about two o'clock in the
16 morning, and that this last named ^{one} was normal and appearing
17 to me to be very sober.

18 Q. And does the affidavit show that the
19 taxi driver knew the pilot in question very well to
20 be able to say that he was normal?

21 A. He doesn't say so.

22 Q. He doesn't say that he was familiar
23 with the pilot's behaviour, or gait, or speech?

24 A. No.

25 Q. And the next affidavit is the hotel
26 keeper?

27 A. Hotel keeper. The undersigned
28 So-and-So hotel keeper, Commercial Hotel at Bagot-
29 ville, certifies at the end of the month of August
30 in the evening of the 30th, Monsieur blank has taken



1 supper in my company and we have drunk each a small
2 bottle of beer.

3 Q. As usual!

4 A. During our repast, during our meal,
5 Monsieur blank complained of a pain in the stomach
6 about nine o'clock. Then he has taken one sole
7 little beer and gone to lie down immediately.

8 Q. He went to bed?

9 A. He went to bed immediately.

10 Q. So they had supper and they were
11 still together by nine o'clock?

12 A. Yes.

13 Q. Either they started late or it was
14 a very, very lengthy supper, and the affidavit shows
15 that the pilot had two small bottles of beer, one at
16 suppartime and one at nine o'clock, and then went to
17 bed, but the affidavit does not say whether the pilot
18 did in fact go to bed. Were they in the same room
19 together?

20 A. The affidavit says he went to bed.

21 Q. But the affidavit does not say whether
22 they were in the same room, whether the man swearing
23 to the affidavit meant in fact that the pilot went to
24 his room. It doesn't show what happened to the
25 pilot after nine o'clock, between nine o'clock and
26 two o'clock in the morning. He might have had
27 several more small bottles?

28 A. It is quite possible.

29 MR. LANGLOIS: It doesn't show that
30 he did.



1 THE WITNESS: And it ends, our
2 night watchman has awoken Monsieur blank about two
3 o'clock in the morning to the end that he would take
4 his boat.

5 Q. You have also the affidavit of the
6 night watchman?

7 A. Yes. The undersigned So-and-So
8 night watchman of the Hotel Commercial, Bagotville,
9 certifies that Monsieur blank has slept at this
10 hotel the 30th of August, in the evening, about
11 nine o'clock, mentioning to me that he had pains in
12 the stomach. I have called Monsieur blank about
13 two o'clock in the morning so that he would take his
14 boat and has left the hotel some minutes afterwards,
15 being in condition very normal.

16 Q. Again the affidavit¹ does not show
17 whether the night watchman was well acquainted with
18 the pilot. Did he knock on the door, did he enter
19 the room and shake him? The affidavit shows none
20 of that.

21 THE CHAIRMAN: You can't cross-
22 examine affidavits.

23 Q. And you must take them with the
24 greatest of circumspection.

25 A. As we understood the fact that the
26 affidavits on the other side, the persons who made
27 the affidavits could not be cross-examined, this cast
28 extreme doubt into the efficacy of any investigation
29 any further.

30 Q. Do you have the affidavit from the



1 master?

2 A. Yes.

3 Q. In all fairness you must read them
4 all.

5 A. I, the undersigned, declare that I
6 was master of the MV K.G.ROGANAES on the 31st of
7 August, 1961. I was sitting in my office with the
8 officials when the pilot passed by the door and went
9 on the bridge. After a short while I went to the
10 bridge and I noticed that the pilot was staggering
11 about, losing his balance. His speech indicated
12 he was under the influence of liquor and his breath
13 emanated with the smell of alcohol. "Amanated" is
14 the word here. I don't know the word "amanated".

15 Q. Emanated?

16 A. I don't know what word this is. When
17 the pilot ordered to let go by waving his arms and
18 hollering I told him to be quiet, and that as he was
19 under the influence of liquor I would undock the
20 vessel myself, and that I would decide later whether
21 I would leave the direction of the vessel in his
22 hands.

23 The vessel backed out from the pier
24 at 322; after turning around I told the pilot he
25 could take over as it was nice and clear.

26 When the second officer came up on
27 the bridge from aft I told him to keep a good watch
28 on the pilot's decisions, and when the chief officer
29 came up at four o'clock the same order was given,
30 and I stayed on the bridge most of the time.



1 During the passage the pilot sat in
2 a chair in the wheel house and was asleep on and off
3 until seven o'clock. The pilot slept from seven
4 o'clock to ten o'clock when the vessel met fog about
5 half an hour before Cape Eagle and the ship's signal
6 of one blast woke him up. The pilot then told me
7 they shouldn't anchor. He would take the vessel
8 up to Quebec. I refused.

9 The vessel anchored at ten o'clock.
10 I sent the pilot for a rest in a cabin. The pilot
11 came back on the bridge at twelve-thirty when the
12 vessel hove up.

13 At that time the pilot seemed to be
14 normal. After leaving anchorage and under way the
15 pilot asked me for a beer by saying "May I have a
16 beer, captain? I am not feeling quite well." I
17 refused and told him "It serves you right." The
18 trip was uneventful after that up to Quebec.

19 Q. Have you other affidavits from the
20 ship's officers?

21 A. That one is signed by the master.
22 This is signed third officer, second officer, chief
23 officer and the master. We are hereby stating the
24 facts that Pilot Mr. blank was very much under the
25 influence of alcohol when he boarded the MV K. G.
26 ROGANAES at Port Alfred on the 31st of August, 1961,
27 and that the master, Captain Carl L. Sjö had to
28 undock the vessel and that the master and officers
29 was keeping the pilot under very close observation
30 and watching every order given in the river. In fact



1 the pilot was sleeping most of the distance runned.
2 The pilot was not in a condition of fit for piloting
3 a vessel.

4 Q. But it does not say who did the
5 conning of the vessel, does it?

6 A. Not in this particular one.

7 Q. It doesn't say so either in the other
8 one? It says he was asleep from seven to nine o'clock,
9 I believe, and that the vessel was in fog but it does
10 not say who was doing the conning of the vessel. It
11 says the pilot was sleeping off and on.

12 A. She wasn't running in fog. Excuse
13 me. She anchored in the fog.

14 Q. Oh, I see. And the master's
15 statement is sworn?

16 A. Yes.

17 Q. Before whom?

18 A. The master's statement itself, his
19 own statement, is sworn before Captain Jacques
20 Gendron who was a commissioner for taking oaths in
21 Quebec. The other statement was sworn by the
22 Royal Norwegian Consulate General at Port-of-Spain,
23 Trinidad, West Indies.

24 MR. BRISSET: Captain Gendron was
25 representing the department when he obtained this
26 affidavit I take it?

27 THE WITNESS: Oh, yes.

28 THE CHAIRMAN: Any further questions
29 in this instance? If not, we will adjourn until this
30 afternoon at two-thirty.

---Luncheon adjournment.



1 ---UPON RESUMING AT 2:40 P.M.

2 DIRECT EXAMINATION BY MR. JACQUES; Continued:

3 Q. Captain Slocombe, I believe we
4 reached question 25 which reads as follows: Summary
5 of career of pilot referred to in volume 60 of the
6 English text, page 7220?

7 A. Yes, Mr. Jacques. Summary of
8 the record, I think it is 23 mentions in 27 years of
9 service. I could run over this.

10 Q. Yes, please.

11 A. In 1938 he was --

12 MR. JACQUES: In order to save time, My
13 Lord, at the suggestion of my friend, Mr. Lalonde,
14 we should like to file this extract, a summary of
15 the pilot's career.

16 MR. LALONDE: I should say his good
17 points are not pointed out.

18 MR. JACQUES: The name is mentioned in
19 this document.

20 THE WITNESS: This is a list of incidents
21 in which he was involved. Some of them were strandings
22 and cases of failing to report for which he was
23 fined and so on, that kind of thing.

24 MR. JACQUES: Q. It shows the alleged
25 offences?

26 A. Yes.

27 Q. And it shows the punishment, if
28 any, which was meted out?

29 A. Yes, it does.

30 MR. JACQUES: This will be an Exhibit.



1 THE SECRETARY: Exhibit No. 1315. For
2 the record may I be informed as to whether the
3 pilot involved was Montreal?

4 MR. JACQUES: Quebec District.

5 ---EXHIBIT NO. 1315: Confidential report on pilot's
6 career.

7 THE CHAIRMAN: It is going to be treated
8 as confidential.

9 THE WITNESS: Yes, My Lord. It is of
10 interest in this particular case that a 579 inquiry
11 was held in one instance. This is a case that has
12 been referred to in evidence before where it was
13 investigated by the local Pilotage Advisory Committee
14 under the Chairmanship of Captain Jones and with
15 the same reservation that the names are not mentioned
16 I would like to file a copy of Captain Jones' report.

17 MR. JACQUES: Q. As Chairman of the local
18 Advisory Committee?

19 A. Right. It is signed by Captain
20 Jones. It is a report of the meeting of the Advisory
21 Committee which was representing the Shipping
22 Federation and the local Superintendent of Pilots,
23 as they were called then, two members of the Quebec
24 Pilots' Committee and Captain Jones.

25 MR. JACQUES: This will be Exhibit 1316,
26 report of investigation by local Pilotage Committee
27 into charge of drunkenness by licenced Pilot Blank of
28 the Quebec Pilotage District, dated May 27th, 1959.

29 THE CHAIRMAN: 1316 is confidential.

30 ---EXHIBIT NO. 1316: Report of investigation by local
Pilotage Committee dated May 27,
1959.



1 THE WITNESS: On the basis of this report
2 -- we cannot call it an inquiry, there is no official
3 status to the inquiry, but on the basis of this
4 report and taking all things into consideration, the
5 pilot's licence was withdrawn. However, his counsel
6 put in a strong plea and it was decided to hold
7 an inquiry under 568 and 579 of the Canada Shipping
8 Act.

9 Q. This was subsequent to this
10 report, Exhibit 1316?

11 A. Right. This is the copy of the
12 proceedings of the inquiry.

13 Q. Was the pilot represented by
14 counsel?

15 A. He was.

16 Q. And who were the other parties
17 before the Commission of Inquiry?

18 A. Mr. Leopold Langlois, representing
19 the pilot; Mr. G. W. R. Graves, Commissioner; and
20 R. R. McGillivray, counsel.

21 Q. Did anyone else appear before
22 the Commission of Inquiry as a party? Was the
23 Shipping Federation represented or the Dominion
24 Marine Association?

25 A. No, there is no record of that
26 here.

27 Q. Or the Association of Pilots?

28 A. No.

29 MR. JACQUES: I should like to file this
30 report, My Lord, or this bundle of documents as



1 Exhibit 1317, entitled File of a Commission of Inquiry
2 under Section 568 and 579 of the Canada Shipping Act
3 into the conduct of a pilot referred to in the
4 question.

5 ---EXHIBIT NO. 1317: Bundle of documents entitled
6 File of Commission of Inquiry.

7 Q. This inquiry was held on April 8th,
8 1960, is that correct?

9 A. April 22nd.

10 Q. April 22nd, 1960. It is one year,
11 I believe, after the report of the local Pilotage
12 Committee which was drafted or filed on May 27th,
13 1959. Do you know the reason for the delay between
14 the two steps?

15 A. No, this is just the natural delays
16 due to the law.

17 Q. Would this Exhibit 1317 contain
18 the findings of the Commission of Inquiry? I don't
19 seem to put my hand on the recommendation --

20 A. I think it does.

21 Q. We might read for the information
22 of all those present the conclusions contained in
23 that report: (1) I am inclined to believe that when
24 Mr. Blank first arrived at the pilotage office to
25 report for duty he was not under the influence of
26 liquor. (2) There is no question at all that prior
27 to his final appearance for his assignment he had
28 been in a tavern. (3) I could not say that he
29 consumed any intoxicating liquor while he was in the
30 tavern nor can I say that he did not. (4) The



1 evidence that I heard did not convince me that Mr.
2 Blank was under the influence of alcohol when about
3 to go on duty. (5) The evidence that I heard did
4 not in my opinion serve to substantiate the allegations
5 contained in the statement of the case.

6 Therefore, the Commission of
7 Inquiry came to a diametrically opposed conclusion
8 from that of the local Pilotage Committee. This was
9 due, as I think the Court will find if they study
10 this, to the fact that the witnesses changed their
11 stories.

12 THE CHAIRMAN: I assume the witnesses
13 were not under oath before the Pilotage Committee
14 because the Advisor had not the power to administer
15 the oath?

16 THE WITNESS: This is correct.

17 MR. JACQUES: Q. We had evidence in that
18 respect. I don't recall exactly what it is. It was
19 asked of some of the members of this local Pilotage
20 Commission whether they placed the witnesses under
21 oath and my memory is that they did not?

22 A. Yes. I don't think that they
23 would have the powers, as His Lordship says.

24 THE CHAIRMAN: They could not have the
25 power because it is not a committee foreseen in any
26 law. In order to have the power to administer the
27 oath it has to be provided somewhere in the laws or
28 regulations.

29 THE WITNESS: This was one case which
30 brought about the demise of the local Pilotage



1 Committees.

2 MR. JACQUES: Q. You mean the reversal
3 of its recommendation by the Committee of Inquiry?

4 A. It appears to everybody that it
5 was not much use.

6 THE CHAIRMAN: You mean in Quebec and
7 Montreal with regard to disciplinary matters?

8 THE WITNESS: Yes, with regard to
9 disciplinary matters. I am sorry, I should have
10 extended that.

11 MR. JACQUES: Q. With respect to the
12 second half of the question why was a licence
13 re-issued to him repeatedly?

14 A. For the same reason as we have
15 discussed this morning that there was never
16 sufficient evidence on which to base a cancellation
17 of a certificate until this time.

18 Q. Well, in 1938 I see a mention in
19 Exhibit 1315 grounding through error in judgment.
20 In 1948 missed turn without any reason. In 1949
21 lack of evidence on the charge that was made. In
22 1951 he was fined for having failed to report. In
23 1952 he missed his turn and he was then warned that
24 a repetition would result in the cancellation of his
25 licence being recommended to the Pilotage Authority.
26 That was in 1952. Again in 1952 there was a stranding
27 with no action taken. It seems there was no conclusive
28 evidence. In 1955 he was suspended for alleged
29 drunkenness and ordered to appear before Dr. Piat
30 but did not do so. In 1956 he was refused on board



1 because under the influence of intoxicating liquor.
2 That was in 1956.

3 Then I see the mention that
4 cancellation of his licence was recommended. Final
5 action and severe warning again in 1956. There was
6 a report of drunkenness. 1956 a report of sick. This
7 is not an offence, of course?

8 A. Of course we did feel that many
9 times when this gentleman reported sick it was pretty
10 much the same reason but there was no way of proving
11 this. He could always come up with a doctor's
12 certificate saying he had been under his care.

13 Q. In 1957 he was ordered to report
14 for duty at the opening of the navigation season. He
15 was warned at the first occurrence of being in
16 trouble through drinking or temperamental instability
17 prompt steps would be taken to cancel his licence.
18 In 1957 grounded a vessel and the only action was
19 he was informed his record was being duly noted.

20 Is that a form of disciplinary
21 action which was then established under the by-laws?

22 A. No. He just knows that this is
23 on his record.

24 Q. In 1957 he was fined for having
25 missed his turn and then in 1959 I believe this is
26 the incident which led to the Commission Inquiry?

27 A. On this occasion his past record
28 was taken into account. He was generally unsatis-
29 factory. My Lord, that record of the 579 Inquiry
30 will serve to indicate how these are carried on. I



1 may say that this pilot no longer has a licence. It
2 has been cancelled on medical grounds.

3 -----

4 CROSS-EXAMINATION BY MR. BRISSET:

5 Q. Since when, Captain?

6 A. Just this year. There was a
7 medical certificate to say that he was definitely
8 not fit to pilot anymore.

9 Q. Was it after his record was
10 brought before this Commission or before?

11 A. When was his record brought
12 before this Commission?

13 Q. In Quebec during the hearings
14 in 1963. Then it would be after the record was
15 brought before the Commission?

16 A. I could give you the doctor's
17 report. It was addressed to Captain Jones by
18 Doctor Robert G. Laidlaw, M.D., on May 26th, 1964.
19 It says: "Further to our correspondence regarding
20 your above noted Quebec pilot, this is to advise
21 that we have just now received a detailed psychiatric
22 examination report from our specialist in Quebec City.
23 Briefly it is stated without any reservations
24 whatsoever that from the mental aspect of this case
25 there is no hope that continuation of treatment or
26 even other order of therapy will ever permit Captain
27 Blank to go back to regular work. It is very clear
28 now that he hates "pilotage". One may declare him
29 at this time as definitely incapacitated.

30 This bureau concurs in the above



1 assessment and in this regard would give favourable
2 consideration to retiring your employee on grounds
3 of ill health."

4 This was done.

5 Q. In fact was it not on October 8th,
6 1963 that action was actively taken to bring about
7 the results that we know of now? I want to quote
8 from the record which is before the Court, Exhibit
9 1315: "In view of the pilot's absence from duty
10 over the past two years the Regional Superintendent
11 was instructed that the pilot must undergo a
12 thorough medical examination before being put back
13 on duty."

14 A. Your question is?

15 Q. That would be the time at which
16 first action was initiated with respect to this pilot?

17 A. The date of that is again?

18 Q. October 8th, 1963.

19 A. We have reference to this before
20 October, Mr. Brisset.

21 Q. My next question will be when
22 was action first initiated to remove this pilot from
23 the assignment list permanently, if it is not
24 October 8th, 1963?

25 A. There was a report to the Acting
26 Supervisor of Pilots at Quebec from the Acting Officer
27 in Charge at Les Escoumains, dated September 11th, to
28 say that on August 31st at about 2215 hours he had
29 received a telephone call from one of the dispatching
30 clerks informing him that Mr. Blank refused to embark



1 on the ship to which he was assigned. The clerk had
2 telephoned Mr. Blank asking him for the reason for
3 his refusal. He replied: "I refuse to embark and
4 request to be removed from the turn." As he
5 arrived at Les Escoumains at 0805 on the 29th and
6 as he changed turns twice I could not remove him
7 from the turn according to the by-law. For these
8 reasons I referred to your station as Mr. Brousseau
9 could not contact you at that time, he suggested that
10 I remove Mr. Blank from the turn and order him to go
11 to Quebec and report directly to you."

12 There was a letter from Mr. Blank
13 dated September 21st to the Acting Supervisor of
14 Pilots, Quebec. He said: "Further to your letter
15 which I received on September 19th, if I refuse to
16 embark on a ship on August 31st and this after
17 changing turn twice, it is because I was sick, in
18 spite of the fact that I did not declare it when
19 phoning to the pilotage office. I believed that
20 it was wiser for me to act this way in the interest
21 of pilotage and myself.

22 I am now being hospitalized at
23 the Jeffry Hale Hospital and I do not know for how
24 long. I am at the disposal of the Pilotage Authority
25 to supply additional information if required. However,
26 I wish to point out that I should have followed the
27 advice of the doctors who advised me that I should
28 have been hospitalized as early as the month of
29 August."

30 Q. Was that investigation carried out



1 by the Regional Superintendent?

2 A. This was reported to the Regional
3 Superintendent on September 24th by the Acting
4 Supervisor of Pilots at Quebec. He said: "I am
5 enclosing herewith copy of letter from Mr. Blank. You
6 will note that he admits not reporting sick when he
7 asked to be removed from his turn.

8 According to the agreement we will
9 wait until Mr. Blank returns to work and we will
10 inform you at that time in order that you may make
11 the necessary arrangements to have him examined by
12 the Department of Health."

13 The Regional Superintendent of
14 Pilots reported this on the next day, September 25th,
15 and he said, this was addressed to the Superintendent
16 of Pilotage at Ottawa: "Further to my preliminary
17 report of yesterday's date, I now enclose copy of
18 Pilot Blank's letter giving his reasons for refusing
19 duty on August 31st last.

20 It will be noted that Pilot Blank
21 made no mention of illness and gave no explanation to
22 the acting officer in charge at Les Escoumains at
23 the time of his refusal.

24 Also enclosed is copy of Mr.
25 Maheux's letter.

26 This man is at present in hospital.
27 It had been my intention, once he reported fit for
28 duty, to have him medically examined by the Department
29 of National Health in accordance with Article 23,
30 paragraphs 2 and 4 of the Quebec District By-Laws,



1 with a view to recommending his retirement. Your
2 instructions are requested.

3 The Superintendent of Pilotage
4 at Ottawa brought the matter to the attention of
5 the Chief of the Civil Service Health Division,
6 Department of National Health and Welfare in Ottawa,
7 asking him to see Pilot Blank when he called upon
8 him and we instructed the Regional Superintendent
9 of Pilots in Montreal to have Pilot Blank appear
10 on his return to duty before a Board of medical staff
11 at Quebec to undergo a thorough medical examination
12 to determine whether or not he is fit to continue
13 as a pilot."

14 That letter was dated October 8th;
15 does this give sufficient, Mr. Brisset?

16 Q. This correspondence is very
17 interesting but I wish to go back to my first
18 question. When this pilot at Les Escoumains refused
19 to accept duty and did not report for duty without
20 at that time stating or declaring that he was sick,
21 was there any investigation made by either the
22 Regional Superintendent or anybody in the Quebec
23 District of your Department to determine why the
24 pilot had refused duty at Les Escoumains?

25 A. No. The pilots do this. There
26 is no sick leave provision. No sick leave reference
27 in the Quebec by-laws. If a pilot informs the
28 dispatcher that he is to be taken off the list, he
29 is taken off the list.

30 Q. In the light of the past record of



1 this by-law, would you not have thought that it would
2 have been in the interest of the pilotage service in
3 that District to carry out an investigation on the
4 spot at Les Escoumains to find out what had been
5 going on during the two or three days that the
6 pilot was there refusing duty?

7 A. Are you suggesting a private
8 detective, Mr. Brisset?

9 Q. No, I am not going that far because
10 I am not a private detective and I found out easily
11 what can happen and I am wondering --

12 A. This would be hearsay purely.

13 Q. I am wondering whether the
14 Department has taken enough interest to try and find
15 out by itself?

16 A. This man was well known to be
17 inclined to a certain weakness. People would talk.
18 It is a matter of hearsay but unless he offends in
19 this way when about to go on duty I don't think that
20 we would have much case against him.

21 Q. At all events am I right in
22 concluding from what you have read and told us, that
23 the actions to remove from the assignment list were
24 more or less taken by himself to start with?

25 A. Finally, yes.

26 Q. To start with?

27 A. In the final episode.

28 Q. In other words, you waited until
29 that man himself started to do something to get removed
30 from the list?



1 A. It made it possible for us to do
2 it, yes. I think it is evident to the Commission now
3 the extreme difficulty we are always under in trying
4 to prove drunkenness.

5 DIRECT EXAMINATION BY MR. JACQUES:

6 Q. We may now move on to question 26.
7 "Is the Pilotage Authority aware of fears expressed
8 by dispatchers of reporting pilots who might not be
9 in a fit condition to perform their duties?"

10 A. This, Mr. Jacques, is tied on to
11 the case we have just been discussing.

12 Q. Yes, I realize that.

13 A. This was a case where the dispatcher
14 gave honest testimony, we believe, but by the time
15 the investigation under 579 was held he was convinced
16 that he had better change it.

17 Q. Would you explain that a little
18 more, please? He was convinced that he should change
19 it?

20 A. I say that he did change it.

21 Q. He did change it, so you are not
22 saying he was convinced to change it?

23 A. He himself was convinced he had
24 better change it obviously or he would not have
25 changed it.

26 Q. You do not mean by that statement
27 that there might have been outside pressure put on
28 the dispatcher, do you?

29 A. May I say what I believe? Yes,
30 I believe there was.



Slocombe, dir
(Jacques)

1 Q. There was outside pressure put on
2 the dispatcher to change his evidence?

3 A. But what I am saying is only
4 hearsay. We cannot prove this, but we understand that
5 certain of the pilots who were, shall we say,
6 persecuting him in between ---

7 Q. How?

8 A. They were going to the office and
9 they would say, "Well, so and so, am I drunk now?"

10 MR. LALONDE: I do not know whether this
11 ever occurred or not.

12 THE WITNESS: It is hearsay.

13 MR. LALONDE: Is the dispatcher concerned
14 dead now or is he still at work?

15 THE WITNESS: I understand he had a
16 nervous breakdown as a result of this.

17 MR. LALONDE: There again that is also
18 hearsay. I am forced to object to this type of
19 evidence. If there is pressure we should get the
20 proper evidence -- if there was pressure.

21 THE CHAIRMAN: It is hearsay anyway. What
22 was the name of this dispatcher?

23 THE WITNESS: Beriau.

24 MR. LALONDE: Did you ever ask him when he
25 appeared whether he was under any pressure from an
26 individual pilot or certain pilots? My question is
27 that during the inquiry he was there under oath;
28 he was available to the Committee. Was the question
29 put to him as to whether he had been put under any
30 pressure to testify the way he did before the Committee?



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

18026

1 THE WITNESS: I do not know if it did;
2 it will be in the ---

3 MR. JACQUES: Q. I might read part of
4 the recommendations of the Commission of Inquiry.

5 I quote:

6 "I was impressed by the
7 responsibility borne by the
8 dispatcher in assigning
9 pilots to ships particularly
10 in cases where some urgency
11 is attached to the situation.
12 He may be all on his own and
13 probably subject to the
14 influence of others. I could
15 not escape the conviction that
16 Mr. Beriau felt himself to be
17 in a very embarrassing
18 situation.

19 I feel, however,
20 that a sense of this responsi-
21 bility should be urged upon
22 him and all dispatchers and
23 in the interests of the
24 pilotage service they should
25 not hesitate to refuse to
26 assign a pilot for duty if
27 they have any doubt about his
28 fitness for duty. Nor should
29 they feel that it will be
30 subsequently incumbent upon



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

18027

1 them to prove drunkenness.

2 I should not want him
3 to regard the outcome of this
4 case as an indication that he
5 or any other dispatcher is
6 not authorized to decline to
7 send a pilot on board a ship
8 if the pilot is, in his
9 opinion, in no condition to
10 carry out his assignment."

11 That is the end of the recommendation with
12 respect to the dispatchers.

13 A. Well, in that regard I may read a
14 letter addressed by Captain Jones on May 8th, 1960
15 to Captain Jacques Gendron, Regional Superintendent
16 of Pilots, Montreal.

17 "As a result of the recent
18 inquiry held by Captain
19 Graves and Mr. MacGillivray
20 under Sections 568 and 569 of
21 the Canada Shipping Act into
22 the suspension last August of
23 Pilot (Blank) of the Quebec
24 Pilotage District based on a
25 report that he had appeared
26 for duty under the influence
27 of liquor, it has now been
28 ordered that Mr. (Blank) be
29 reinstated on the roll of
30 active pilots. Please there-



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

18028

1 fore issue the necessary
2 instructions to have this order
3 put into effect forthwith.

4 Although the result of
5 this inquiry established it
6 could not be proved that Mr.
7 (Blank) was under the influence
8 of liquor at the time claimed,
9 you should make it clear to Mr.
10 Beriau that this finding is not
11 to be construed in any way as
12 an adverse reflection on his
13 decision on the grounds of
14 Mr. (Blank)'s appearance not
15 to permit him to board the
16 vessel. On the contrary, his
17 action based on Mr. (Blank)'s
18 appearance was entirely in
19 order with respect to the
20 general procedure.

21 Dispatchers having reason
22 to feel that a pilot is not in
23 a satisfactory condition to
24 board a vessel must refuse to
25 dispatch him and in doing so
26 they should get in touch with
27 the Superintendent immediately
28 so that he may corroborate the
29 dispatcher's decision should an
30 opinion as to the pilot's



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

18029

condition be required.

Please issue the necessary
instructions on this general
procedure to the Superintendent
at Montreal and Quebec."

Q. This answers the second half of the
question, I believe?

A. Yes.

Q. Coming back again to the first half
of this question -- "Is the Pilotage Authority aware of
fears expressed by dispatchers" -- have you received in
your capacity as Superintendent of Pilots reports that
your dispatchers fear refusing pilots the right to board
ships?

A. Not in writing.

Q. Not in writing -- verbally?

A. It just has been verbal conversation.

Q. With whom?

A. This might come from the local
Supervisor.

MR. LALONDE: Have dispatchers expressed to
you the fears on reporting pilots who might not be in a
fit condition to perform their duties?

THE WITNESS: The dispatchers have not
approached us directly on it.

MR. JACQUES: Q. Ottawa?

A. Yes -- have not approached Ottawa
directly on it.

Q. Are you aware they have approached
the local Supervisors?



1 A. The local Supervisors have told us
2 so. This is where we have got the information.

3 Q. This is where you have got the
4 information?

5 A. Yes, information, if you call it that.

6 Q. According to the information which
7 you have were these fears expressed by one dispatcher
8 or by dispatchers generally or several dispatchers?

9 A. We have heard this in a general sense
10 for many years and it is quite feasible. These are
11 very low paid people, as the Commission found, and they
12 stand in awe, you might say, of the pilots generally
13 speaking. They know that the pilots can make or break
14 them.

15 MR. LALONDE: Oh, come on; I must object
16 again to such statements, My Lord.

17 THE CHAIRMAN: They feel rather than they
18 know?

19 THE WITNESS: All right, My Lord, they feel.

20 MR. LALONDE: After all, they are Civil
21 Servants and they have all the privileges of the Civil
22 Service.

23 THE WITNESS: When I say that the pilots are
24 offenders in this, it is only some of the pilots. There
25 are all kinds of pilots. Some we know and respect and
26 would know that they would not take part in this kind
27 of thing.

28 MR. JACQUES: Q. Now would these fears have
29 been expressed by dispatchers of any particular District
30 or is it generally all dispatchers?



1 A. We have never heard it outside the
2 St. Lawrence.

3 Q. All right, outside of St. Lawrence ---

4 MR. LALONDE: I would ask that Captain Jones
5 would get in the box rather than Captain Slocombe on
6 this matter. The Captain seems to know much more about
7 this than Captain Jones.

8 THE WITNESS: Captain Jones is in direct
9 contact with the pilots.

10 MR. LALONDE: It is not a reproach to you,
11 Captain Slocombe, by any means except that I am under the
12 impression (I may be wrong) that for the last ten
13 minutes you have been getting answers from Captain Jones.
14 Captain Jones has been giving you what he heard from
15 the local Supervisor who was reporting what he had been
16 told by some dispatchers. Sorry, but it is very far-
17 fetched.

18 THE WITNESS: The Deputy Minister might do
19 this in Parliament.

20 MR. LALONDE: Well, I know that, except that,
21 My Lord, these are general statements which might have
22 serious consequences if they are taken as such.
23 Personally I may assume that it must have occurred, I
24 am sure, once in a while that some pilot would have come
25 to a dispatcher and said: "That was terrible to report
26 so and so or to do such and such a thing" -- or to have
27 reported him. I am sure this must have occurred and I
28 am sure it has occurred not only in the St. Lawrence
29 River. It is human nature.

30 THE CHAIRMAN: I know we have in evidence in



1 British Columbia that the Regional Superintendent over
2 there fines the pilots for using abusive language against
3 him, so I presume it was something like that.

4 MR. LALONDE: If it happened to this
5 Superintendent it may happen even more to dispatchers
6 who are working for him, but once this is said I think
7 we are hearing evidence now which is a little bit far-
8 fetched.

9 THE WITNESS: It is as far as I have gone.

10 MR. LALONDE: Excuse me -- a little bit far-
11 fetched on this matter and it should not be admitted
12 as such on broad general terms.

13 THE CHAIRMAN: It is very difficult to draw
14 the dividing line because most of what Captain Slocombe
15 has given in his testimony from the very beginning
16 are things which he has been taking from files, that
17 he has not witnessed himself. But he is representing
18 the Department here. But in cases like that, if you
19 want special cases, we might ask the man who received
20 the information from outside -- like, from the local
21 Superintendent.

22 MR. LALONDE: I submit, My Lord, that it is
23 not for me to ask that they should bring these persons.
24 If the Department is of the view that there are undue
25 pressures exerted upon dispatchers or local Superintendents
26 they should have managed to ask these questions from
27 the Superintendents when they appeared, or get the
28 dispatchers who are their employees to come and say so.

29 THE WITNESS: My Lord, the question is asked
30 and I tried to answer it. If the question is withdrawn



1 it will be easy to forget it.

2 MR. LALONDE: I want this to be clear, Captain
3 Slocombe; I am not reflecting upon you personally in
4 this matter. It is just that you are yourself in a
5 position where it is hard for you to give a serious
6 answer to this question.

7 THE CHAIRMAN: So should we have more
8 definite answers on this question as to the nature of
9 the complaints and by whom; if Captain Jones received
10 them it is all right that we should ask him to give
11 the information and then you will have first-class
12 evidence as to the fact that it was reported to him by
13 somebody, if he will be the witness. Even that would be
14 just the fact that it was reported to him and not the
15 fact that the Supervisor received those complaints --
16 just the fact that the Supervisor reported to him.

17 MR. LALONDE: Yes. I would not want to waste
18 the Commission's time too much on this point. I
19 personally would readily admit it must have occurred,
20 I am pretty sure, once in a while -- a pilot would have
21 said something to a dispatcher. It would be unbelievable
22 that it would not have occurred anywhere. It is just
23 that I cannot accept statements on the record like,
24 "persecution of the pilots" or "pilots can make or break
25 a dispatcher" and that type of statement without very
26 strong evidence to support it.

27 THE CHAIRMAN: That is a conclusion.

28 MR. LALONDE: It is very unfair evidence.

29 THE CHAIRMAN: It is a conclusion anyway.

30 THE JACQUES: My Lord, the question as put to



1 the Department was not whether any of the dispatchers
2 told them that they were told "X" by the pilots. The
3 question was of a general nature and referred generally
4 to a particular case perhaps following upon it, the
5 case of Pilot (Blank), but the question relates to fears.
6 A fear may arise after an incident has occurred. A fear
7 may arise before an incident occurs. The fear may be
8 justified and it may not be justified. The purpose in
9 the question was to find out whether the Department
10 protected its own employees or gave its own employees
11 assurance that they would be supported should their
12 refusal to allow a pilot to board a ship be criticized
13 by the pilot concerned.

14 But in view of my friend's statement
15 I am quite satisfied. I consider it as an admission that
16 this is something which is not only in the realm of
17 far-off possibilities but which is something which is
18 likely to happen sometimes from some pilots -- I would
19 not say from all pilots.

20 MR. LALONDE: I would say that it is just as
21 likely to have happened anywhere in any organization.
22 That is the only point I am ready to admit, because I
23 have no evidence. It is just the same as people working
24 in the Department could use abusive language towards
25 their superiors once in a while or ---

26 MR. JACQUES: Again we do not distinguish the
27 two problems. One question was asked and we got an
28 answer -- which was not expressly under the question --
29 which related to previous evidence, the evidence with
30 respect to Beriau. My question is general. My question



1 does not relate to Beriau.

2 MR. LALONDE: My objection was not relating
3 to him either.

4 THE WITNESS: I think, My Lord, I have stirred
5 this up by saying too much. I could have answered these
6 two questions just by Yes and Yes, we are aware of
7 fears and have we given support -- yes. Perhaps it
8 would have been better if I had kept quiet.

9 MR. LALONDE: It would not have been enough.
10 I would have cross-examined.

11 MR. JACQUES: No. You would have been asked
12 how did you become aware.

13 THE CHAIRMAN: If you want to have Captain
14 Jones for further examination on that as to who told
15 him ---

16 MR. JACQUES: I should like to hear Captain
17 Jones on that, My Lord.

18 THE CHAIRMAN: That is all right. We will
19 suspend Captain Slocombe's testimony for a few minutes.
20 ---Witness withdrew.

21 -----

22 CAPTAIN DAVID RUSSELL JONES, Sworn

23 DIRECT EXAMINATION BY MR. JACQUES:

24 Q For the record, Captain, would you
25 state your full name and your occupation?

26 A. My full name is David Russell Jones
27 and I am Superintendent of Pilotage, Department of
28 Transport.

29 Q. And as such are you the immediate
30 superior of the local Supervisors or Superintendents of



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Jones, dir
(Jacques)

18036

1 Pilots?

2 A. I am.

3 Q. They report to you in the course
4 of their duties?

5 A. The title is a little awry, but the
6 essence of the question is answered by Yes.

7 Q. And they report to you directly in
8 the course of their duties?

9 A. They do.

10 Q. With reference to question 26, which
11 is a question at large -- I don't want it to be taken
12 as directed to the Quebec District only -- is the
13 Pilotage Authority aware of fears expressed by dispatchers
14 of reporting pilots who might not be in a fit condition
15 to perform their duties?

16 In the course of your duties as
17 Superintendent of Pilots in Ottawa were such fears
18 expressed or made known to you through the proper
19 chain of command or otherwise?

20 A. In a conversational way this point
21 comes up from time to time. Whether the fears are
22 well-founded or not --

23 Q. You say in a conversational way?

24 A. Yes.

25 Q. I can converse with my friend at
26 the adjournment, but there is nothing official attached
27 to it. Was that an official conversation? Was that
28 something which was reported to you in the course of
29 your duties?

30 A. It is hard to break down and subdivide



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Jones, dir
(Macques)

18037

1 one's conversation into official communications and
2 unofficial, but the gist of these comments from time
3 to time have occasionally touched on this matter, and
4 as has been said on many occasions such fears are
5 held by these people. This is not, as pointed out
6 earlier, this is not surprising.

7 To be more specific, for example,
8 on one occasion one pilot threatened me with dismissal,
9 that he would arrange my dismissal. I was not unduly
10 concerned and troubled about this, but I mention it
11 because I am aware of that and I give you an example.

12 Q. Yes?

13 A. But if you threaten me with dismissal
14 I would suppose that it might easily occur.

15 Q. Let's not suppose. Now, these fears,
16 or rather the conversations which you mentioned, where
17 were they held? Telephone conversations or were they
18 face to face conversations?

19 A. Well, they occur from time to time.
20 I can't remember where each individual one took place,
21 but I visit local offices from time to time.

22 Q. Would that be in the course of those
23 visits?

24 A. Yes.

25 Q. What is the purpose of those visits?

26 A. The purpose is quite away from this
27 immediate matter. They are on various official business
28 and in the course of which I discuss the matters of
29 pilotage generally.

30 Q. You were there in your capacity as



1 Superintendent?

2 A. Exactly, yes.

3 MR. JACQUES: Thank you.

4 -----

5 CROSS-EXAMINATION BY MR. LALONDE:

6 Q. Are you aware of the case of one
7 dispatcher in Quebec who has been employed there for
8 something like 28 years? Isn't it a fact that both
9 the Department of Transport Pilotage Authority and the
10 pilots' representatives generally agree that he is
11 unsatisfactory but nobody can do anything to remove him?

12 A. I didn't suggest, I hope, that I
13 thought these fears were always well-founded. I
14 didn't say that.

15 Q. My question is very simple. I want
16 to know whether it is true that pilots can make or
17 break a dispatcher. Isn't it a fact you have a
18 dispatcher that has been there many years and nobody
19 is satisfied with his work, and he enjoys the normal
20 privileges a civil servant enjoys and you are caught
21 with it?

22 A. Oh, yes.

23 THE CHAIRMAN: Any further questions on
24 this subject? We will now resume with Captain
25 Solcombe.

26 ---Witness retires.

27 -----

28 CAPTAIN SLOCOMBE, Recalled

29 DIRECT EXAMINATION BY MR. JACQUES:

30 Q. On question 27 --



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

18039

1 A. Will you keep questions 27 and 28
2 for Mr. Land?

3 Q. So we move on to question 29, why
4 the eastern limit of the Quebec District has not been
5 amended as yet?

6 A. Quebec Pilotage District limits
7 are set out in Section 322 of the Canada Shipping Act.

8 Q. When was the station transferred from
9 Father Point to Escoumains?

10 A. In 1960.

11 Q. Yes?

12 A. One of the amendments proposed in
13 Bill S-3 when it went before the Commons would have
14 permitted the Governor-In-Council to change the limits
15 of the Montreal and Quebec Districts in the same way
16 as the limits of other Districts may be changed. In
17 the debate on the second reading this was one of the
18 things that were objected to, and when the Bill was
19 withdrawn --

20 Q. The Bill was withdrawn as a whole?

21 A. Yes, and this was included with that.

22 MR. LALONDE: Will you tell me when Bill S-3
23 was withdrawn, approximately, or when it was introduced?
24 This was tabled yesterday, My Lord. The first reading
25 was 20th of January, 1959.

26 THE WITNESS: I am told that "withdrawn" is
27 the wrong term.

28 MR. LALONDE: The wrong term?

29 THE WITNESS: The wrong term to use.

30 MR. MacGILLIVRAY: I think the fact is that



1 Session of Parliament came to an end before Parliament
2 had finished reading the Bill.

3 THE CHAIRMAN: It died a sudden death?

4 MR. LALONDE: It was not withdrawn; it was
5 just rolled under the carpet and the House decided to
6 adjourn.

7 I am showing you a letter written
8 by Mr. Alan Cumyn to Mr. Gaston Rousseau on October 3rd,
9 1960, suggesting that the wording of Section 322 be
10 amended, and giving the amendment in such a way that
11 it would define the new limits of the District. Have
12 you seen this in your records?

13 THE WITNESS: It is quite possible that I
14 had something to do with the wording, but I have forgotten
15 it.

16 MR. LALONDE: I would like to file this
17 photocopy. There are a few words in French at the
18 end of the letter. These words have been added by the
19 Secretary of the Quebec Pilots' Corporation. The
20 English would read: "This change has not yet been
21 made".

22 Do you know any particular reason
23 why, once having written this letter of October 3rd,
24 1960, nothing was done since because in effect the
25 letter said it would seem advisable to make an amendment
26 when the Act next comes before Parliament, and in effect
27 the Act went before Parliament several times since 1960.

28 I would like to produce this letter
29 as Exhibit 1318.

30 ---EXHIBIT NO. 1318: Photocopy of letter written by Mr.



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

18041

Alan Cumyn to Mr. Gaston
Rousseau, dated October 3rd,
1960.

THE WITNESS: I can't give you any reason.

MR. LALONDE: Not even the one that Captain
Jones has just given you?

THE WITNESS: Well, Captain Jones has told
me -- you will say this is just hearsay again -- he has
just told me that Mr. Cumyn had conversations with the
pilots.

MR. LALONDE: Had what?

THE WITNESS: Had some conversations with
the pilots on it, Pilots' Committee, and after these
conversations he said it is just as well to let it
drop.

MR. LALONDE: We will have to get Mr. Cumyn
then.

THE WITNESS: But I don't think it is
relevant. It doesn't matter. The fact that the
District limits are where they are does not affect the
fact that the boarding station is at Les Escoumains.

THE CHAIRMAN: But pilotage service is not
performed east of Escoumains. For instance, Rimouski,
Riviere du Loup, Forestville, there is no pilotage
service in there for ships to go to berth. I understand
there was pilotage service given by unlicensed pilots,
so therefore under the Act now this ship should be
obliged to pay.

MR. LALONDE: I think you mentioned Riviere
du Loup. Riviere du Loup would be inside the District.

THE WITNESS: This might be with the



1 acquiescence of the pilots. Otherwise we would have
2 heard of it before.

3 MR. MacGILLIVRAY: My Lord, I wonder if we
4 are not putting this witness in a difficult spot. The
5 fact is whether or not a provision is to go into a Bill
6 to be introduced in Parliament is a matter of government
7 policy, and decided at a much higher level than that
8 of the Civil Service. It is decided by Cabinet, and
9 I think it is asking quite a bit of Captain Slocombe
10 to give reasons why the government has not enacted some
11 legislation.

12 THE CHAIRMAN: Let's change the question:
13 Why the Authority has recommended that the change be
14 made?

15 THE WITNESS: I could say, My Lord, that we
16 in the Department would prefer that the Quebec and
17 Montreal Districts would be on the same basis as other
18 Districts. Then when there is a change made, a
19 practical change made, it can be done by Order-In-Council.

20 THE CHAIRMAN: As the Authority you mean?

21 THE WITNESS: Yes, as the Authority. I am
22 speaking now as a departmental officer. That is an
23 expression of opinion. Then when the pilots wanted
24 something changed, we will be able to change it. When
25 we have convinced them something could be changed, we
26 could also change it.

27 THE CHAIRMAN: This raises the question that
28 first the acquiescence of all the pilots has to be
29 obtained. This money goes to them in the long run, and
30 secondly, I don't know how the Authority would decide



1 even with the consent of all the pilots not to collect
2 dues but are payable under the system and under the
3 authority of the Privy Council by Order-In-Council.

4 MR. JACQUES: And dues which are to be paid
5 into the Pension Fund.

6 MR. MacGILLIVRAY: But dues are principally,
7 My Lord, to be paid for pilotage and are not payable
8 when no pilot offers his services.

9 THE CHAIRMAN: It is not because it is
10 impossible but because the Authority does not dispatch
11 him.

12 MR. MacGILLIVRAY: Yes, but if the pilots
13 don't want to be dispatched and the ship doesn't want
14 a pilot, then the Authority just doesn't dispatch.

15 THE CHAIRMAN: I think it is just not going
16 by the by-law. If it is not workable, it should go
17 to Privy Council in order to have them amended. What is
18 the use of having laws and by-laws if they are not
19 followed. I think maybe it is because the question
20 of principles like that have not been followed that we
21 find so many difficulties nowadays.

22 MR. MacGILLIVRAY: If a ship at Rimouski were
23 to ask for a pilot and none were sent, then the ship
24 would not be liable.

25 THE CHAIRMAN: And if the ship does not ask
26 for it, I think it should be charged immediately, and
27 they that ask should have it.

28 MR. BRISSET: I was hoping that somebody would
29 say a good word for the ship that does not get any pilot
30 but would seem to be called upon to pay for the service



1 necessary.

2 THE CHAIRMAN: That is the law. If the law
3 is not workable, let's change it.

4 MR. JACQUES: Q. Question 30 refers to an
5 amendment to the law. Apparently both the ship owner
6 and pilots were of one mind to increase the \$15.00
7 indemnity, indemnity paid to pilot who is taken out of
8 his District by the vessel before he has disembarked
9 be increased to \$25.00.

10 A. I think this must have just been
11 missed.

12 THE CHAIRMAN: I suppose this also applies
13 to Section 360, quarantine. Item 360. It would apply
14 to both, I suppose?

15 MR. JACQUES: Not according to the evidence
16 which was had from Captain Rousseau in Quebec, My Lord.
17 It was merely for pilots who are taken out of the
18 District.

19 THE CHAIRMAN: Yes, because Section 360 does
20 not apply in practice very often now, but it is still
21 in the law. If one is changed the other should be
22 changed at the same time.

23 THE WITNESS: Both were changed at the same
24 time last time, and next time we will have it in.

25 MR. LALONDE: Do I understand you to say it
26 was just missed?

27 THE WITNESS: I think it must have been when
28 the question came up.

29 MR. LALONDE: But you had correspondence
30 on the subject, did you not?



1 THE WITNESS: Yes, but when amendments to
2 the Act were being considered, actively considered,
3 this was not included in the proposed amendment, but
4 not through any deliberate intent.

5 MR. JACQUES: Q. The file was just not
6 brought forward at the proper time?

7 A. Probably, yes.

8 THE CHAIRMAN: Before coming to the \$65,000.00
9 question, we are going to adjourn for ten minutes.

10 ---SHORT ADJOURNMENT.

11
12 MR. JACQUES: Captain Slocombe, this morning
13 Mr. Brisset postponed his cross-examination on question
14 23 in order to enable you to obtain a file which you
15 did not have this morning and you obtained the file?

16 A. No, but we have obtained a little
17 more information. We have obtained this through
18 contacting Quebec and Montreal and it is stated that
19 there was a medical examination.

20 Q. Excuse me, I should let Mr. Brisset
21 continue.

22 A. There was a medical certificate
23 received after the first casualty before he was put
24 back on the list.

25 Q. The second one?

26 A. The second one. This medical
27 examination stated he was fit. I am only told this.
28 We haven't got it yet.

29 CROSS-EXAMINATION BY MR. BRISSET:

30 Q. Would you have a second medical



1 certificate obtained between the first and second
2 casualty which you did not have in your file here in
3 Ottawa?

4 A. At the moment?

5 Q. Would it be possible for you to
6 obtain from whatever office this certificate is located
7 the certificate in question?

8 A. We have asked for it. They are
9 looking for it. They remember it but they had not
10 found it when they spoke on the telephone. We hope
11 to have it.

12 Q. Were you told from what source this
13 certificate emanated?

14 A. I think the National Health and
15 Welfare as far as I know, but I am not able to say.

16 Q. My understanding was it was a
17 Sanitarium. You are not in a position to either deny
18 or affirm that?

19 A. No, we hope to have it.

20 DIRECT EXAMINATION BY MR. JACQUES:

21 Q. Now if you will move on to question
22 31, which I believe is closely linked with question 34,
23 both of which were partially answered yesterday --

24 A. I was hoping we had finished with
25 that in question 16.

26 Q. No, I am afraid we haven't. Would
27 you explain how the Department arrived at the 4¹/₂?
28 Why not 5? Why not 10?

29 A. Are you on 31 or 34?

30 Q. I am now on 34, but 34 should be read



1 with 31. I believe 31 was answered yesterday.

2 A. Well, this $4\frac{1}{2}\%$ in the letter on file
3 from the Minister, it gives the figures.

4 Q. This letter, which is Exhibit 697,
5 quotes a figure of $4\frac{1}{2}\%$?

6 A. Yes.

7 Q. Is this a figure that came out of the
8 blue or is it the result of calculations?

9 A. This was a hypothetical target income.
10 The letter is merely, you might say, suggestions. The
11 idea of the target income was an income which would be
12 agreed upon by negotiations between the Shipping
13 Federation and the pilots but in this letter there is
14 only a rough suggestion.

15 COMMISSIONER SMITH: Did that same principle
16 apply to the suggested, correct me if I am misstating
17 anything, 25% in St. John, New Brunswick?

18 THE WITNESS: Yes.

19 COMMISSIONER SMITH: The same principle?

20 THE WITNESS: Yes, the same principle. It was
21 just an amount that was taken out of the hat, as you might
22 say, for considering commencement of the considering on
23 this.

24 MR. JACQUES: Q. This letter, I believe, refers
25 to a figure as gross earnings or earnings of the pilots,
26 \$14,762.00. This is the letter that you have before you?

27 A. I am not sure now what that figure
28 was, but I imagine it was an amount after allowing the
29 agreed upon allowance for expenses. It would be including
30 the Pension Fund deduction, but it would be after this



1 allowance for expenses. I think this could be checked
2 by referring to the lists of income in the various
3 years.

4 Q. Would you check and tell us where
5 that figure of $4\frac{1}{2}\%$ comes from for the Quebec pilots
6 and where does the 25% figure come from for the Saint
7 John, New Brunswick pilots?

8 A. I don't know what it would be.
9 Possibly \$13,000.00 or something like this, using as
10 the starting point the difference between that \$14,762.00
11 and $4\frac{1}{2}\%$ --

12 Q. Would you check and make sure that
13 is the procedure followed?

14 A. I want to stress this was not any
15 fixed --

16 Q. Now, to arrive at the $4\frac{1}{2}\%$ someone
17 must have used figures of some kind. It was not the
18 interest rate prevailing for the day which did it?

19 A. No. This was what they called the
20 "skim-off" over a certain amount.

21 Q. How did they arrive at the "skim-off"?

22 A. By taking an amount which was
23 considered to be a reasonable figure as an income and
24 taking the rest off.

25 Q. And what was the amount which was
26 considered reasonable?

27 A. This I am sure we can arrive at by
28 taking $4\frac{1}{2}\%$ off \$14,762.00.

29 Q. Would you check on how you arrived at
30 $4\frac{1}{2}\%$ for the Quebec District and 25% for the Saint John



1 New Brunswick District?

2 A. I would like to discuss the final
3 penultimate paragraph. It says: "Before reaching any
4 final decision on these matters I felt it reasonable
5 to allow members of your Pilotage District to consider
6 this problem and let me have your proposals as to how
7 best we could deal with the problem." This letter is
8 purely a starting point for discussion.

9 Q. I agree but I would like to know
10 the work which was done in order to establish that
11 starting point.

12 A. We will get this if it is on the
13 file.

14 THE CHAIRMAN: Perhaps it is a tendency.

15 MR. JACQUES: As was said in the course of
16 the evidence in Toronto, I think Mr. Brisset filed a
17 report from the hearings before the Congress and some
18 Captain said he asked for \$100.00 a day in the hope
19 of getting \$50.00. Was this the same thing? Did you
20 offer 4½% in the hope of getting 2%?

21 A. I don't know. It was the case of
22 taking a figure that was considered reasonable from our
23 point of view. It might have been that the Shipping
24 Federation would have considered this too high, and
25 the pilots, of course, would have considered it too low.

26 Q. Nevertheless would you bring the file
27 with you tomorrow in order that we may know exactly how
28 the Department proceeded in that matter?

29 CROSS-EXAMINATION BY MR. LALONDE:

30 Q. In connection with this letter to the



1 Quebec District was any study made of the local Authority
2 for such deduction? Under what Section would you have
3 taken these?

4 A. I think it would have been in the
5 same way as in Halifax, for instance. The same as it
6 always was in all the Districts except the St. Lawrence
7 where you have an old one here where it said the
8 expenditures out of the pilotage fund would be so much
9 for this and so much for that and this would include
10 expenditures on pilot boats and so on.

11 Q. Are you referring to Sections in the
12 Canada Shipping Act or in the by-laws?

13 A. In the by-laws.

14 Q. Is there anything in the Quebec
15 by-laws which would have allowed you to do that?

16 A. No, it would have to be amended.

17 Q. The by-law?

18 A. Yes.

19 Q. And this would probably have come
20 under Section 328 of the Act?

21 A. 329, the powers of the Pilotage
22 Authority.

23 THE CHAIRMAN: It would have to be 328, I
24 think.

25 MR. LALONDE: Q. If you look at 328 it
26 says: "The Pilotage Authority of any District, other
27 than the Pilotage District of Quebec, may, with the
28 sanction of the Governor-in-Council, appoint a Secretary
29 and Treasurer and pay him such salary or remuneration,
30 out of pilotage dues or fees for licences received by it,



1 as it sees fit, and may, with such sanction and out
2 of such funds, pay any other necessary expenses of
3 conducting the pilotage business of the District."

4 THE CHAIRMAN: Could you point out anything
5 in 329?

6 THE WITNESS: I thought I could, My Lord.

7 MR. JACQUES: Under 329 there would be
8 sub-paragraph (h) but whether that sub-paragraph is
9 applicable to the Quebec District in view of the wording
10 of Section 328 is a different question.

11 THE CHAIRMAN: 328 does not refer to paying
12 expenses.

13 THE WITNESS: "(b) Make regulations respecting
14 the approval, licensing, management and maintenance of
15 pilot vessels and their equipment, and respecting the
16 distribution of the earnings of pilots and pilot vessels."

17 MR. LALONDE: Q. You submit it is under 329(b)
18 the action was taken?

19 A. No, I don't think it has gone as far
20 as that. It was considered by me, maybe erroneously,
21 that we could have done it by by-law, but it might have
22 required an amendment to the Act. This was a long term
23 project.

24 Q. I understand you are going to provide
25 us with all the documents referring to this 4 $\frac{1}{2}$ %?

26 A. I will provide you with the way in
27 which it was worked out or mooted.

28 DIRECT EXAMINATION BY MR. JACQUES:

29 Q. Now question 32 refers to the proposal
30 to grant exemptions to vessels instead of increasing the



1 number of pilots in the Quebec District.

2 A. I don't know where it came from. I
3 remember the suggestion was made, whether formally or
4 not I don't know.

5 Q. I will read from the evidence of
6 Mr. Rousseau, volume 67A, page 8173: "There was a
7 problem I forgot to mention a few minutes ago that we
8 asked -- I think we were only 75 pilots at the time and
9 a suggestion had been made to us that the number should
10 be kept, pegged at 75 and that this, in fact, would be
11 the saturation point, and even if we needed to increase
12 the numbers of pilots afterwards instead of increasing
13 the number of pilots we would begin to have exemptions
14 granted to some vessels, but they never said which type
15 of vessels. This was one of the main problems in 1960. "

16 A. I have no personal recollection of
17 this, but it would be quite logical, of course.

18 Q. Would you know who would have
19 personal recollections of these discussions?

20 A. Could you give me any help?

21 Q. Yes. I could continue the questions.

22 "Q. Who said that?

23 A. The Pilotage Authority.

24 Q. Who mentioned that specifically?

25 A. If I remember correctly it
26 was Mr. Alan Cumyn himself,
27 Director of Marine Regulations.

28 Q. Was this mentioned in writing
29 or orally in a conversation?
30



1 A. Well, I know that this was
2 mentioned in a conversation,
3 but I don't think -- I don't
4 remember that there was any
5 conversation on this.

6 Q. Was the conversation between
7 Mr. Cumyn and yourself?

8 A. No, it was Board of
9 Directors who were present
10 during this conversation and
11 Mr. Cumyn and Captain Gendron
12 also attending the meeting."

13 A. Well, I can't say any more about that.

14 Q. There is nothing in your file with
15 respect to that question?

16 A. I don't recall it. This was not
17 the same time as they were talking about the amendment
18 to the Act and the possibility of changing the kind of
19 exemptions.

20 Q. Surely this is a very, very important
21 step, this is something which apparently was totally
22 new in pilotage. Surely it must have been discussed
23 before it was suggested to the pilots?

24 A. Well, I am not able to say what it was.

25 Q. There would be nothing in your files
26 on that? Just a proposal pulled out of thin air by Mr.
27 Cumyn?

28 A. Mr. Jacques, there are conversations
29 with pilots which are completely off the top of the hat.
30 We don't formally send a memorandum to a pilot when we



1 want to talk to them. We treat them like friends.

2 Q. A suggestion of that importance, it
3 seems to me, must have been considered seriously before
4 it was made.

5 A. I don't see that it would have to
6 be considered so terribly seriously. It was just a
7 thought somebody had and they sounded out the pilots on it.

8 Q. So it was not a serious offer then?

9 A. I would not say it was. It was a
10 suggestion as to a possible course of action.

11 Q. And this is said as being one of the
12 main problems in 1950?

13 A. Well, I don't know. They were looking
14 for things to find fault with. They were looking for
15 trouble I am afraid.

16 Q. In the view of the pilots it was a
17 main problem. I am not saying the main problem -- it
18 is even said the main problem in 1960.

19 A. This specific item?

20 Q. I am reading from the evidence --

21 MR. LALONDE: Was the evidence in French or
22 English? Do you remember we had some trouble with the
23 translation?

24 THE CHAIRMAN: Unfortunately some of the
25 transcript has not reached us as yet, the French one,
26 from the Montreal reporter, Bedard is his name.

27 MR. JACQUES: Q. Well, the French text might
28 be better translated thus, and I quote: "This also,
29 it has been a big problem in 1960."

30 A. Well, I am quite sure that this would



1 only have been part of the general discussion on
2 possible changes in exemptions, but I cannot say any
3 more about it because I did not make the remark. As far
4 as I know I was not there at the meeting.

5 MR. JACQUES: Would the Commission wish to
6 hear Mr. Cumyn on that, because this is a complete
7 departure from the concepts followed in pilotage.

8 THE WITNESS: Why?

9 MR. JACQUES: Q. Because you were limiting
10 the number of pilots over and above a certain work load,
11 which does not appear there would be exemptions.

12 A. But on the other hand would the
13 exemptions have been withdrawn -- the exemptions provided
14 in the Act have been withdrawn in the Montreal and
15 Quebec Districts? If they can be withdrawn in order
16 to provide funds then is it not reasonable to suggest
17 that the opposite might take place also?

18 Q. Oh, yes, granted, but if you grant
19 an exemption the law entitles you to withdraw the
20 exemption. But what is novel about the proposal is that
21 the number of pilots in a given District would be fixed.
22 It would be 75 pilots and then if the work load increased
23 to such an extent that the pilots could no longer
24 perform their duties adequately, there would be no
25 further pilots licensed to exemptions granted. This is
26 a novel concept in pilotage.

27 A. Yes, it was novel all right.

28 MR. LALONDE: My Lord, I would like to support
29 Messrs. Langlois and Jacques for Mr. Cumyn's appearance.
30 I have already produced a letter for which Captain



1 Slocombe was not in a position to give an explanation
2 and there are other things which I would like to ask
3 Mr. Cumyn.

4 THE CHAIRMAN: So you will take note of that
5 and then we will see about the other things when they
6 come up.

7 MR. JACQUES: Thank you, My Lord.

8 CROSS-EXAMINATION BY MR. LALONDE:

9 Q. If we could go back to this period
10 of 1959, 1960, the Bill S-3 which you explained
11 yesterday and this particular proposal which was raised
12 or mentioned in the discussion in Quebec, would it be
13 fair to conclude that during that period the Department
14 had pretty well embarked on a policy of granting
15 exemptions to ships on the St. Lawrence River on the
16 basis of certain requirements which would be inserted
17 obviously in by-laws or otherwise, like examinations
18 and things like that? Would that be a fair assessment?

19 A. Embarked on it?

20 Q. Yes.

21 A. Oh, no. It was only right at the
22 first suggestion stage.

23 Q. Nonetheless, Bill S-3 had been
24 presented with this in mind, had it not?

25 A. Yes, because the information was
26 that the present basis of exemptions, which had nothing
27 to do with safety but is only to ensure adequate income,
28 was not reasonable.

29 Q. If you look at the proposal which
30 was made in the discussion with the Quebec pilots in this



1 particular instance, that particular proposal obviously
2 was also in line with the policy which was at least
3 considered in the Department. It was not yet embarked
4 upon?

5 A. Oh, I would say so. It was allied
6 to it. It was one of the various suggestions that we
7 were putting to the pilots.

8 Q. And when you refer to these facts
9 as suggestions, did you not say, however, that the way
10 Bill S-3 was introduced and what it contained pretty
11 well indicated that that policy was pretty well decided
12 upon?

13 A. As a desirable thing, yes.

14 Q. Is it not fair to conclude that this
15 was not only a matter which would have been part of
16 discussions at your level in the Department, but it
17 would have been considered by the higher authorities of
18 the Department and as such be considered a policy of
19 the Department?

20 A. Well, certainly it was not at my
21 level only. It could not have been in the Act at only
22 my level.

23 Q. Now do you know of discussions of
24 that nature, or suggestions of that nature being made
25 to the pilots before Bill S-3 was introduced in the
26 House? I am not referring to 1918 or 1920; I am
27 referring to the 1950's period.

28 A. I do not know. I cannot say how
29 these dates -- when exactly this conversation took
30 place. I do not know.



1 Q. It seemed that this conversation
2 was in 1960 and the Bill S-3 was in 1959, so it was
3 after Bill S-3 obviously?

4 A. I do not think this was well thought
5 of for a long time, this particular one.

6 Q. I understand, yes, but my question
7 was before the policy which is implied in Bill S-3
8 was inserted in that Bill, do you know of any discussions
9 or specific proposals from the Department to the pilots
10 concerning a policy of exemptions versus increasing
11 the number of pilots?

12 A. No. I guess that is....It was first
13 necessary to make it possible to make changes before
14 you could even discuss them.

15 Q. I see, so your view was that to make
16 the law in such a way, first make the law in such a
17 way that you would have been given the authority to do
18 it and then discuss with the pilots, for instance, how
19 to implement it?

20 A. Yes, I would say that is reasonable.

21 DIRECT EXAMINATION BY MR. JACQUES:

22 Q. Now, question number 33 -- what about
23 this statement of witness to the effect that the
24 Department planned to let Americans pilot in the St.
25 Lawrence River? I believe this was partially answered
26 yesterday.

27 A. This was in Bill S-3. This envisaged
28 the possibility of American lakers being treated in the
29 same way as Canadian lakers.

30 Q. This excerpt which I shall read is



1 from the evidence given by Captain Rousseau and is
2 contained in volume 67, page 8178, English text. It
3 seems to refer to the negotiation in 1960, and I
4 quote:

5 "There was also another problem,
6 if my memory serves me right.
7 It was a problem of letting
8 foreigners or American pilots
9 perform work up to the District
10 of Cornwall to Montreal and if
11 I remember correctly at those
12 meetings we had protested, that
13 is, all the pilots present had
14 protested against the fact that
15 American pilots would perform
16 their duty up to Montreal.

17 Then we were told that in
18 a few years' time the same
19 pilot who would go to Montreal
20 would be authorized to go to
21 Father Point.

22 Q. When was that point mention-
23 ed to you?

24 A. Well, we had so many meet-
25 ings during that spring period
26 that -- it was mentioned in the
27 spring of 1960.

28 Q. Was that one of the problems
29 that you raised with the Minister
30 in October?



1 A. Yes, this was one of the
2 major problems that was raised
3 then."

4 This is slightly different from the questions
5 of yesterday where it was whether the American ships
6 would have exemption or not. This is a problem of letting
7 Americans act as pilots right up to Montreal and then
8 later on to Father Point?

9 A. Did Mr. Rousseau say -- did I under-
10 stand you correctly that he said that a Departmental
11 Officer had suggested that this was going to be? Who
12 was this meeting with?

13 Q. I might read further.

14 "Q. Did you have any guarantee
15 on that subject from the
16 Minister?

17 A. Yes. I think that the
18 Minister signed an agreement and
19 this was the first thing
20 mentioned in that agreement, that
21 there was a guarantee to the
22 effect the American pilots would
23 not navigate in Canadian waters."

24 So if it is contained in the agreement of
25 October, 1960, signed by the Minister, it must have been
26 discussed at the same time that the other problems were
27 discussed?

28 A. Not necessarily. Yes, but it may have
29 been raised and the Minister would give the guarantee
30 there without it having been discussed with the Minister



1 before, because I do not know of any departmental
2 officer who would have suggested that we let American
3 pilots pilot down to Father Point.

4 Q. You have no recollection of such a
5 thing having been mentioned even off the top?

6 A. I will check with Captain Jones to
7 see if he remembers anything.

8 ---Witness consulted with Captain Jones.

9 THE WITNESS: No, I think that this may have
10 been an unwarranted fear on the part of our pilots
11 that this may have been something that might come
12 eventually, but I do not know of anybody among the
13 officers who would suggest such a thing.

14 MR. JACQUES: Perhaps Mr. Cumyn might recall
15 something. I know that it appears that this was raised
16 at the same time as the question of having two pilots
17 on board the vessels was raised and the problem of two
18 pilots was discussed by Mr. Cumyn himself with the
19 pilots.

20 MR. LALONDE: That is, two pilots in winter-
21 time, during winter navigation?

22 MR. JACQUES: Oh, yes.

23 THE WITNESS: This meeting which Mr. Rousseau
24 is referring to was with whom? Does he say?

25 MR. JACQUES: Q. He does not say. He says
26 there were so many meetings in 1960 that he does not
27 recall who was present when that particular subject was
28 discussed.

29 A. Well --

30 Q. He just says it was mentioned in the



1 spring of 1960.

2 A. I have no knowledge of it.

3 MR. LALONDE: I am instructed that this was
4 said by Mr. Cumyn, so that might be another question
5 which we might refer to him.

6 THE CHAIRMAN: So you will take a note of
7 that?

8 MR. JACQUES: Yes, My Lord.

9 Q. I believe question 34 has been dealt
10 with and we may now move to question 35 -- "Any
11 reported instance of vessels grounding on Cap Gribane
12 25-foot patch during the last five years?"

13 A. I have a list here of reported
14 patchings.

15 Q. At Cap Gribane?

16 A. In the vicinity.

17 Q. In the vicinity?

18 A. There are two letters there which
19 are quite interesting.

20 MR. JACQUES: I should like, My Lord, to
21 file these three documents as Exhibit 1319. It will
22 be entitled List of Vessels grounded in the vicinity
23 of Cap Gribane during the past five years either on or
24 near the 25-foot patch. This document gives the date,
25 the name of the vessels, the position of patchings and
26 a column for damage, but there is no damage in either
27 case. The second document is a letter from Captain D. B.
28 Jones to Mr. H. Land, Chief Engineer, St. Lawrence Ship
29 Canal, dated June 11th, 1962 and a memo from Mr. Land
30 to Mr. Jones dated June 18th, 1962.



1 ---EXHIBIT NO. 1319: List of vessels grounded in the
2 vicinity of Cap Gribane during past
3 five years. Letter from Captain
4 Jones to Mr. H. Land, dated June
5 11th, 1962. Memo from Mr. H. Land
6 to Captain Jones dated June 18th,
7 1962.

8 THE CHAIRMAN: Are you going to pass to
9 another question? I think the one on the Advisory Board
10 will take some time.

11 MR. JACQUES: The Advisory Board, yes, My
12 Lord. I will deal with question 37 which will not take
13 long.

14 THE WITNESS: The question is the nature
15 of complaints of pilots, the reply of the DOT, and
16 action taken on complaints, if any.

17 Q. With respect to the pilot boat at
18 Escoumains, I believe you explained the nature of the
19 complaints yesterday. The pilots apparently claimed the
20 boat was not long enough or something or didn't behave
21 well.

22 A. This is the actual complaint signed
23 by Mr. Wilfrid Menard, Secretary-Treasurer.

24 Q. What date does it bear?

25 A. January 31, 1963, of the Lower St.
26 Lawrence Pilots Corporation. It sets out the complaints,
27 and there is the letter in reply from Captain Allard, at
28 that time local Supervisor of Pilots. The letter to
29 Captain Allard by Captain Jones, and one to Captain Jones
30 from Mr. Hamel, and one to Mr. Hamel from Mr. Wilfrid
Menard.

Q. I should like to file these documents
My Lord, as Exhibit 1320. It is an exchange of correspond-



1 ence between the 31st of January, 1963 and March 10 --

2 I'm sorry, I see a letter dated 1959. Are you sure
3 that it relates to this?

4 A. This is the beginning. This is when
5 the plans were passed to Mr. Hamel, by Mr. Hamel to
6 the pilots and returned to Mr. Hamel by Mr. Wilfrid
7 Menard.

8 Q. Then it is correct, March 10, 1959?

9 A. Yes.

10 ---EXHIBIT NO. 1320: Exchange of correspondence between
11 the dates 31st of January, 1963
 and March 10, 1959.

12 Q. You have no reply to the last letter,
13 dated the 31st of January, 1963, have you? Some of that
14 correspondence has already been filed, My Lord. I
15 believe it answers the sub-questions of question 37.
16 Would you have anything to add to these documents,
17 Captain?

18 A. No.

19 CROSS-EXAMINATION BY MR. LALONDE:

20 Q. You stated yesterday, Captain, that
21 these boats were not built specifically for Escoumains;
22 is that correct?

23 A. This is correct. They were a proto-
24 type which was supposed to be suitable for all outside
25 pilot boats.

26 Q. In fact they were considered mainly
27 in view of future use in the Maritimes, I understand.
28 Is that correct or incorrect?

29 A Not necessarily only the Maritimes.
30 As I say, they were intended to be a prototype which



1 would be a standard.

2 Q. Had they been built having in view
3 Les Escoumains or another port?

4 A. Yes, we did have Escoumains in mind.

5 Q. I notice Captain Allard wrote a
6 letter to Mr. Menard subsequent to his letter of February
7 25, 1963, and Mr. Allard's letter pretty well translated
8 the letter from Captain Jones to Captain Allard of
9 February 12, 1963, where it is said at the second para-
10 graph here: "We note the remarks of the pilots concerning
11 the supposed difficulty of operating these boats in
12 a seaway, and in view of the fact that the pilots are
13 not required to handle the boats themselves, we are
14 unable to understand their raising this point."

15 Do you agree with any such statement?

16 A. In a sense, yes, because they were
17 not handling the boats. However, I don't think that
18 it should be said that way and certainly not in the
19 way that Captain Allard translated it to Mr. Menard.

20 Q. But it is still in here: "We are
21 unable to understand their raising this point"?

22 A. Obviously they do have an interest
23 in it, on how the boat is handled, but Captain Allard
24 translated that that they have nothing to do with it.

25 Q. It is a free translation. "Moreover
26 it is surprising the pilots complained about alleged
27 difficulties of operating these ships in a following sea
28 since they have not anything to do with the handling
29 of these boats", which is pretty close to what Captain
30 Jones had written, I submit.



1 A. I think we would all agree that the
2 pilots who are being boarded or disembarked from a
3 ship do have an interest in how a pilot boat behaves.

4 Q. Can we take these statements as an
5 implication of the attitude of mind with which the
6 complaints of the pilots was approached?

7 A. No, not generally certainly.

8 Q. Obviously you are not in a position
9 to answer for what Captain Jones wrote.

10 THE CHAIRMAN: Are there any other questions?

11 CROSS-EXAMINATION BY MR. MASON:

12 Q. Captain, are there any cases on
13 record of a situation where, due to stress of weather
14 at Les Escoumains, it was not possible to put a pilot
15 on the vessel due to stress of weather?

16 A. Oh, I imagine there would be. This
17 is normal at any pilot station.

18 Q. Now, if that particular vessel chose
19 to proceed to Quebec without a pilot, would it be
20 charged for pilotage services?

21 A. Oh, yes.

22 Q. Even though he requested a pilot
23 and --

24 A. The pilots can correct me if I am
25 wrong, but if such an instance happened I imagine they
26 would go a little farther up the river and board there.

27 Q. Do you know whether such an incident
28 has happened?

29 A. I can't say no, but I see Captain
30 Jones nods his head that it has happened.



1 Q. Was he in fact charged with pilotage
2 dues?

3 A. I imagine so. I don't know the
4 specific case.

5 Q. Even though he has requested for a
6 pilot and the pilot was not able to get on?

7 A. As I say, we understood that if it
8 was not possible to board off Escoumains, they would
9 board at Tadousac a little farther up. We don't know
10 of the case that you seem to refer to, or you seem to
11 imply that a ship went actually all the way up without
12 a pilot.

13 Q. That is my understanding.

14 A. Well, if you give us the name and
15 time and so on we can check it.

16 THE CHAIRMAN: April, 1962. Are there any
17 further questions on this matter? Then we will adjourn
18 until tomorrow morning at ten o'clock.

19 ---WHEREUPON THE HEARING ADJOURNED AT 5:00 P.M.

20

21

22

23

24

25

26

27

28

29

30

ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT

Ottawa

VOLUME No.:

141

DATE:

Sept. 17, 1964

OFFICIAL REPORTERS
ANGUS, STONEHOUSE & CO. LTD.
BOARD OF TRADE BLDG.
11 ADELAIDE ST. W.
TORONTO

364-5865

364-7383



ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Exchequer Court Building,
Ottawa, Ontario, on Thursday,
the 17th day of September, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federa- tion of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of Montreal Harbour Pilots; Corpora- tion of the Mid-St. Lawrence Pilots; Cor- poration of the St. Law- rence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	for the Canadian Merchant Service Guild
Mr. Colin Mason	for the Dominion Marine Association
Mr. R. McGillivray	for Department of Transport



H. L. LAND (Chief Engineer
St. Lawrence Ship Channel), sworn

DIRECT EXAMINATION BY MR. JACQUES:

Q. Mr. Land, you were some time ago provided with a series of four questions which the Royal Commission on Pilotage wishes your Service to answer. Have you prepared the answers?

A. I have notes.

Q. You have notes

A. Yes.

Q. The first question reads as follows:
any thought of reviewing decision to let South Channel go; any request received in that respect?

A. I have looked through all my files and I find no record of any request for reviewing the decision to let it go. I presume by "letting it go" it means as far as dredging is concerned.

Q. I refer you to your revidence given in Montreal on July 2nd, 1963, as reported in Volume 40, page 4664, with reference to South Channel.

Q. Is there any particular reason why this dredging has not been carried on? Dredging of the South Channel?

A. Well, that is a matter of -- I just can't give you a firm answer there, but as I recall it at that time there was pressure to put all the traffic into North Channel. In



1 order to reduce the cost of the
2 maintenance it was decided best
3 to let the South Channel go and
4 concentrate on the North.

5 A. As far as I can recall it was decided
6 not to continue dredging in the South Channel after
7 the North Channel was completed. The North Channel
8 was completed excepting for the upper portion of it in
9 1937, and I find there has been no dredging in the
10 South Channel, no maintenance dredging since 1934.

11 Q. Any thought of having any dredging
12 done in the South Channel?

13 A. There has not been ---

14 Q. In the near future?

15 A. No, there has not been any thought
16 given to that by the department to the best of my know-
17 ledge.

18 Q. There has been no consideration given
19 to maintain a certain depth in the South Channel?

20 A. No, no.

21 Q. You received no request for dredging
22 in that area?

23 A. Not in my office.

24 Q. In connection with the South Channel
25 I was directed that you would answer a question which
26 we had put to the Department of Transport, and it
27 reads as follows: Any official notice that Beaujeu
28 Channel was no longer maintained? If so, when, where,
29 and why is it not indicated as such on the relevant
30 charts?



1 A. May I say something about maintaining?

2 Q. Yes.

3 A. My view and in the work in which I
4 am engaged, maintaining is related to dredging, and
5 when I refer to maintenance I mean maintenance dredging,
6 but in actual fact the South Channel has been maintained
7 in so far as certain aids to navigation are concerned.

8 Q. Oh, yes, but I am not concerned with
9 aids to navigation. I am concerned with depth.

10 A. Yes. Well, there has been no main-
11 tenance as far as dredging is concerned, but there have
12 been from time to time notices issued in regard to
13 available depth, and the last chart, dated February
14 22, 1963 -- I believe that is the last issue -- has a
15 note at Beaujeu Bank to the effect there is only
16 17 feet of water available at low tide.

17 Q. You wouldn't recall the number of
18 the chart?

19 A. 1207.

20 COMMISSIONER SMITH: What was the
21 depth of that channel before it was abandoned?

22 THE WITNESS: Thirty feet in 1934.

23 Q. I have chart 1207, which was filed
24 as Exhibit 440, and it purports to be corrected up to
25 the 22nd of May, 1963.

26 A. This is the one. In St. Thomas
27 Channel, less water reported 1960 than is indicated on
28 the chart.

29 Q. Chart 1207?

30 A. Yes.



1 Q. This is the only notice that was
2 given of depth in the Beaujeu Channel?

3 A. Yes. As I mentioned, Notices to
4 Shipping were issued from time to time indicating the
5 depth available at the time of issue of notice, pre-
6 vious years.

7
8 CROSS-EXAMINATION BY MR. LALONDE:

9 Q. Mr. Land, I read in the paper a
10 suggestion that the South Channel should be dredged and
11 opened to navigation fully, especially following the
12 recent accidents. Have you any comment to make on
13 such a suggestion so that there would be one-way
14 traffic on the river below Quebec?

15 A. This is a very big question involv-
16 ing departmental policy. I cannot speak fully on
17 that point. I would say, however, that it would
18 involve pretty large expenditure to maintain deep
19 draught channels below Quebec.

20 The South Channel was only dredged
21 to 30 feet originally, and would not accommodate
22 vessels of the largest type at all stages of the tide.
23 The matter of whether or not it should be reopened
24 would have to be studied very carefully before any
25 statement could be made.

26 Q. You said very large expenditure.
27 Would you have any idea what type of expenditure that
28 would represent for taking it back to its previous
29 30 feet without dredging further? I understand if
30 you dredged further down it would increase even more,



1 but suppose you dredge it back to 30 feet. What would
2 that represent approximately?

3 A. I haven't any fast figures here. A
4 few years ago an approximate estimate was made, and as
5 I recall, there were about six million cubic yards of
6 dredging involved, mainly at the upper end, St. Thomas
7 Bank and Beaujeu Channel.

8 Q. That is to take it back to 30 feet?

9 A. Yes.

10 Q. What approximate cost would that
11 represent by the usual standards?

12 A. There has been a great variation in
13 dredging prices lately.

14 Q. Supposing they have finished all the
15 islands on the river.

16 A. I don't think we would get it for
17 less than a dollar a cubic yard.

18 Q. So that if you went to take it down
19 to 35 or 37 feet ---

20 A. Well, that would increase it tre-
21 mendously because the area to be dredged would also
22 be larger because of the slope of the river.

23 Q. Do you consider it would be useful or
24 valuable that it should be taken back to 30 feet, for
25 instance? Could it not help a very large number of
26 ships plying the river?

27 A. Well, under the present percentage
28 of ships using the South Channel I am not sure what the
29 figures are. We had a survey made in 1949 which
30 indicated that in that year and the previous seven



1 years about three per cent of all shipping, including
2 deep water and river and all types of shipping, used
3 the South Channel. Three per cent of the total.

4 Q. Yes, but we are referring here to
5 South Channel as it was then. That is, without main-
6 tenance dredging since 1934.

7 A. Yes.

8 Q. I am instructed that probably about
9 ninety per cent of the ships go up and down river with
10 less than thirty feet draught. Would that be a fair
11 approximation?

12 A. It would probably be very close, yes.

13 Q. In effect if you had South Channel
14 dredged to 30 feet, it could mean at least a very large
15 number of ships could use that channel under ordinary
16 conditions?

17 A. Yes, it is quite possible, sir.

18 Q. Do you foresee any particular problem
19 with ice or complications about ice?

20 A. No.

21 Q. With the dredging of that?

22 A. No, it shouldn't make any difference
23 to the ice flow and the ice pattern down there, no.

24 Q. And no substantial difference to the
25 flow of the water in the river and water levels further
26 up?

27 A. No, because down there the controlling
28 factor is chiefly the tidal influence.



1 BY MR. JACQUES:

2 Q. In connection with the questions put
3 by my friend I show you again Chart 1207, Exhibit 440.
4 On this chart you will see indicated in red in the
5 middle traverse what seems to be a channel. This came
6 from evidence heard in Quebec City to the effect that
7 it might be possible or that there had been some talk
8 about dredging the middle traverse so that vessels
9 would go south of Coudre Island instead of north
10 of Coudre Island, and perhaps there could be one-way
11 traffic on either side of the island.

12 Would you be aware of any such plans
13 or proposals or suggestions?

14 A. Well, as a matter of fact, we are
15 now making as complete as possible study, hydraulic
16 study of the river, and this is one of the points which
17 was included in our study.

18 Q. I see.

19 A. There is nothing of any definite
20 nature yet as to the selection of a channel, but we
21 are certainly including this in our study.

22 Q. Your study, what is the purpose of
23 the study?

24 A. To make the best use of available
25 water primarily, and improving the conditions in the
26 river in so far as available water is concerned, and
27 also keeping in mind the conditions during the ice
28 period.

29 Q. Is that study completed?

30 A. Oh, no, not at all.



1 Q. When do you expect it to be com-
2 pleted?

3 A. It will certainly be a couple of years
4 at least before we can get any preliminary answers to
5 it.

6 Q. Now, with respect to the dredging of
7 the middle traverse, you stated that this was part of
8 your survey?

9 A. Part of the survey. We are studying
10 those problems all the way from Montreal down to Quebec
11 and below Quebec.

12 Q. How extensive would the dredging of
13 the middle traverse be, approximately?

14 A. Of course, that would be a matter of
15 how wide a channel we will want. One thousand feet.
16 We haven't made any estimate yet, but it would certainly
17 involve a few million dollars, there is no doubt about
18 that.

19 Q. Is your survey complete with respect
20 to the effect that the dredging of the middle traverse
21 would have on the current?

22 A. No, not at all. That is a point
23 which we will have to study primarily, the effect on
24 currents.

25 Q. But in your opinion the dredging
26 of the middle traverse is something possible? It is
27 not a pipe dream?

28 A. Well, it is certainly something that
29 is worth considering.

30 COMMISSIONER RENWICK: What would be



1 the mileage entailed in that six million cubic yards
2 South Channel dredging?

3 THE WITNESS: Well, it would most
4 likely be roughly speaking ten miles, part of which
5 would be deep water, but the area covered would be
6 approximately that.

7 THE SECRETARY: May it please your
8 lordship, I would like to ask one question on that
9 point. Mr. Land, looking at Map 1207, the velocity
10 of the current ebbing at the centre traverse as opposed
11 to the current velocity in the Ile aux Coudres channel
12 in the North Channel?

13 THE WITNESS: Well, at St. Roch
14 Traverse, the lower end, the ebb tide figure is 8 knots.
15 That is on the falling tide. At about the middle
16 of St. Roch Traverse it is $7\frac{1}{2}$ knots. At the upper
17 end 7 knots.

18 THE SECRETARY: Ebbing?

19 THE WITNESS: Ebbing Rising tide
20 it is somewhat less of course. About $4\frac{3}{4}$ knots.

21 THE SECRETARY: Is there a cross-
22 current at St. Roch Traverse?

23 THE WITNESS: Well, there are tide
24 rips on the ebb tide. Disturbance of the surface and
25 a few feet below the surface.

26 THE SECRETARY: I take it in relation
27 to the relatively high velocity there is a problem of
28 cross-currents?

29 THE WITNESS: Well, the tide rips
30 and the high velocity.



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Land, dir
(Jacques)

18078

1 THE SECRETARY: Now, coming back to
2 the North Channel again ---

3 THE WITNESS: North Channel, north of
4 Ile aux Coudres, we have on the ebb tide velocities of
5 5 knots at the upper end of Ile aux Coudres. Four knots
6 about midway, and 4 knots at the lower end on the ebb
7 tide.

8 Rising tide from the lower end, 2
9 knots increasing to 3 just about a third of the way up,
10 and then 4 knots about midway. This is on the rising
11 tide, and $3\frac{1}{2}$ knots at the upper end of the island.

-

-

-

-

-



1 THE SECRETARY: Looking at this
2 map I see the North Channel is relatively wide com-
3 pared to the South Channel. What would be the dif-
4 ference between the two? It seems to be two or
5 three miles wide in the North Channel.

6 THE WITNESS: At the Ile de Coudre
7 it is less than a mile of very deep water, of 35-foot
8 water.

9 THE SECRETARY: At the St. Roch
10 Traverse. How wide is it in the South Channel?

11 THE WITNESS: It appears to be a
12 quarter of a mile, probably a thousand feet or so,
13 probably a little more than that but it is not quite
14 straight.

15 THE SECRETARY: One final question
16 to complete the answer that you gave to the Commission
17 counsel in connection with your hydraulic studies re
18 the eventual or possible use of the middle traverse.
19 How extensive are the studies?

20 THE WITNESS: We have a hydraulic
21 model of the St. Lawrence from Montreal to Lake St.
22 Peter. That is the only area covered up to date
23 and we will eventually have to have models of certain
24 sections. It would be impossible to cover the whole
25 river.

26 THE SECRETARY: But do I understand
27 from your evidence that that your current hydraulic
28 studies contemplate the use of a hydraulic model to
29 complete the studies?

30 THE WITNESS: Yes; wherever we feel



1 that computations have to be checked by model studies
2 we have built a model. There are certain areas of
3 the river where hydraulic computations are relatively
4 simple and would not require a model to corroborate
5 them but there are other areas where we have to have
6 a model even though it might only cover a relatively
7 short distance.

8 THE SECRETARY: I take it you have
9 not reached a decision whether you will require a hy-
10 draulic model for the middle traverse?

11 THE WITNESS: Not yet.

12 MR. BRISSET: If the South Channel
13 were dredged back to 30 feet what would be the width
14 available in the dredged part?

15 THE WITNESS: So far we haven't a
16 complete survey of the South Channel. The last
17 dredging, as I indicated, was in 1934 at the upper end.
18 I would think that a thousand feet could be made
19 available but this is not a firm answer because we
20 haven't got the evidence.

21 MR. JACQUES:

22 Q. Question No. 2 deals with the details
23 of the request for dredging made by pilots and action
24 taken, if any, with respect to the South Channel with
25 respect to the past six years.

26 A. We have had no such request in our
27 office in regard to dredging but we have had requests
28 for sweeping.

29 Q. Would you have the details of those
30 requests for sweeping?



1 A. Yes, I have a letter dated 1960 and
2 also another one dated 1964, two in 1964.

3 Q. Are these the only requests for
4 sweeping you have received?

5 A. In the last six years.

6 Q. Would you say the dates again?

7 A. There is one September 23rd, 1960.

8 Q. And it was with reference to what part
9 of the South Channel?

10 A. Beaujeu Channel. This was from
11 Wilfrid Menard, Secretary-Treasurer of the Association
12 of Pilots, Quebec:

13 "Dear Me. Land: We will appreciate
14 receiving from your Department soundings of Beaujeu
15 Channel. We thank you in advance for your coopera-
16 tion."

17 Q. That was September 23rd, 1960?

18 A. Yes.

19 Q. And were you able to supply the
20 soundings requested?

21 A. Not at that time. My answer on
22 October 7th was:

23 "Your request for Beaujeu Channel
24 soundings is at hand. The soundings available date
25 back to 1949 and certainly are not up to date."

26 Q. I quite agree with you.

27 A. "It is not the policy of the Depart-
28 ment to maintain the South Channel. This is the reason
29 why no more soundings have been taken in this area."

30 Now we have another letter September



1 5th, 1963.

2 Q. Would you read the letter? It is a
3 letter from Mr. Menard to yourself dated September 5th,
4 1963, again with reference to Beaujeu Channel and also
5 Empress Shoal?

6 A. "With reference to your letter of
7 September 23rd, 1960, re soundings for Beaujeu
8 Channel, it would be very much appreciated by the
9 members of this Association if soundings could be taken
10 at Beaujeu Channel and also Empress Shoal."

11 Q. So you had not then supplied any
12 soundings or taken any fresh soundings?

13 A. No. My reply is: "We acknowledge
14 receipt of your letter dated September 5th re soundings
15 at the above mentioned areas. We will instruct our
16 District Engineer Mr. E. Morin to try and fit in the work
17 as soon as possible. You will be supplied with plans
18 of the results."

19 Q. This was September 19th, 1963?

20 A. Yes.

21 Q. And when were soundings in fact
22 taken?

23 A. Just this year. They are not en-
24 tirely completed.

25 Q. And this is the only request you have?

26 A. We have an additional one later this
27 year.

28 Q. Separate and distinct requests, this
29 is the only one you have had from the pilots?

30 A. Yes.



1 Q. The next question is with respect to
2 the widening of the channel between Quebec and Montreal.
3 When you gave evidence the work was still in progress
4 and we should like to know how much has been done
5 since we heard in June last year?

6 A. Yes, I have that. We have completed
7 the 800-foot widening in Cap a la Roche curve, Cap
8 Charles Channels and curve. The extra width has just
9 recently been made available to shipping. I might
10 add that the Aids to Navigation Division is going to
11 place the buoys as soon as they have a ship available.
12 The channel is now clear.

13 Q. So the width is there but the buoys are
14 still in the old position?

15 A. The buoys are in the old position
16 but ready to be placed as soon as they can work it
17 into their programme and I trust it will be before the
18 end of next week.

19 Q. Now were Notices to Shipping issued
20 to the effect the dredging was done?

21 A. As soon as the buoys are in the
22 Notices to Shipping will be issued.

23 Q. And the Notices to Mariners have not
24 been issued either, I take it?

25 A. No, that always awaits the placing
26 of the buoys.

27 Q. This is the only dredging?

28 A. We have also started dredging on
29 a two-year contract basis at Batiscan.

30 Q. Was that widening?



1 A. Yes.

2 Q. To what width?

3 A. Eight hundred feet. This will in-
4 clude Batiscan channel, Batiscan curve, Batiscan
5 traverse, Cap le Rard curve and channel.

6 Q. This you expect will be completed
7 in two years?

8 A. By the end of next year, yes.

9 Q. Is there any other dredging being done?

10 A. Not now.

11 Q. At Cap Sante is any dredging being
12 done?

13 A. Maintenance dredging at Cap Sante
14 and below Quebec, usual maintenace dredging.

15 Q. The list you have given is capital
16 dredging?

17 A. Capital dredging, capital improve-
18 ments, yes.

19
20 CROSS-EXAMINATION BY MR. LALONDE:

21 Q. Have you reached any conclusions re
22 the construction of the Three Rivers bridge and the
23 icemovement and the general traffic on the river?

24 A. An official report was made to the
25 Department by Mr. Harold Lee, a professional engineer.
26 That covered the whole situation there. We haven't
27 made any of our own reports. We supply any avail-
28 able information to Mr. Lee that we had in our office.

29 Q. Mr. Lee is one of your employees?

30 A. No, he is a consulting engineer. He



1 was hired by the department to make the survey.

2 Q. On the basis of that study did you
3 foresee greater difficulty in connection with ship
4 movements around Three Rivers?

5 A. Well, there will be a little diffi-
6 culty because of the fact that the bridge traverses
7 the anchorage and turning area which reduces the area
8 for the movement of ships.

9 Q. Are there any conclusions re the
10 effect on movement of ice resulting from the construc-
11 tion of the bridge?

12 A. No. As far as we can gather from
13 observation of ice in that area I don't think that the
14 bridge should have very much effect on ice because
15 usually it is broken up quite fine after it leaves
16 Lake St. Peter.

17 Q. Now in view of the fact that the
18 bridge crosses the present anchorage have you definite
19 plans now for dredging a new anchorage?

20 A. We have made recommendations to the
21 Department regarding certain dredging to provide
22 greater facilities for turning ships.

23 Q. Are these facilities in the same
24 area or are they lower down?

25 A. There is one lower down and one up-
26 stream at Port St. Francois.

27 Q. In effect, do you propose to have
28 two new anchorages replace the present one?

29 A. This was in connection really with
30 the turning of ships rather than anchorage. I am not



1 sure what will be done in the way of anchorage.

2 Q. Do you mean to say these proposals
3 do not provide for anchorages?

4 A. The anchorages are there. There is
5 considerable area above the bridge, from the bridge up
6 to Port St. Francois, which would be available for
7 anchorage. Any ships anchoring up there would have to
8 turn and in order to facilitate the turning we propose
9 to cut off batures.

10 Q. And up to now you have no definite
11 decision then as to what is to be done in Three Rivers
12 as far as turning areas??

13 A. These are recommendations that have
14 to go through the departmental procedure of acceptance.

15 Q. And estimates and all that?

16 A. Yes, right.

17 Q. I presume you can indicate on the
18 chart the approximate area where you would consider
19 the turning points?

20 A. Yes.

21 Q. Do you know which chart?

22 MR. JACQUES: Chart 1326.

23 THE SECRETARY: Exhibit 446.

24 MR. LALONDE:

25 Q. I am showing you Exhibit 446, which
26 is chart of Champlain Lake, St. Peter. You can use the
27 red ink sticker and indicate the area in red where the
28 turning points would approximately be. You are
29 circling with red ink a part of a bature which would
30 be removed?



1 A. Yes.

2 Q. That part removed would be in Port
3 St. Francois?

4 A. Port St. Francois wharf, yes. I
5 have to work this by memory. It is approximately like
6 this. This is just an approximation. We don't have
7 a line -- probably a little farther to the south would
8 be sufficient.

9 Q. This is indicated again in red ink.
10 Where would you describe it? How would you describe
11 it?

12 A. Actually it is from Buoy 61C up
13 through to the 30-foot contour on the south side of
14 the river.

15 Q. That is approximately the south limit
16 of the prohibited anchorage at the present time?

17 A. Yes. I believe this line should be
18 a little farther south at the lower end but this is
19 the approximate area. It is not intended to be an
20 exact delineation.

21 Q. So you would judge that area so
22 the ships could turn?

23 A. Yes.

24 Q. In what now is a prohibited anchor-
25 age?

26 A. Yes. The ships that are in Three
27 Rivers could use this turning instead of having to
28 go above the bridge and ships anchored above the
29 bridge could use this for turning.

30 MR. LALONDE: Thank you very much.



DIRECT EXAMINATION BY MR. JACQUES:

Q. Has the Department of Transport made any study with respect to these anchorages and turning areas and navigational difficulties which might result from construction of the bridge?

A. The studies are only of a very limited nature. We haven't had any meetings as it were with the Pilotage Authority or the pilots.

Q. No, I am not referring to pilots particularly.

A. No, but we have looked at it from our own point of view from the danger that might arise from these limited spaces available.

-

-

-



1 Q. With respect to navigation particular-
2 ly by whom were you advised? Who were your experts
3 in navigation?

4 A. Well, now, perhaps in a limited
5 sense we are all experts in some phase of navigation.
6 We have just used our own resources in the department.

7 Q. Would you have consulted with the
8 masters of coast guard vessels?

9 A. Oh, yes, definitely.

10 Q. Would it be fair to say, then, that
11 they advised you -- or your department, I should say --
12 with respect to navigational difficulties?

13 A. Yes. We have their experience to
14 call on at all times and the fact that our own officers
15 -- that is, our officials; the St. Lawrence Ship
16 Channel Division particularly -- are on the river at
17 all times, and observe any of these difficulties or
18 any of the ---

19 Q. I quite realize that, but I could
20 stand on the river bank all my life and observe ships
21 in difficulties and yet not be able to resolve them
22 or not be able to comment upon them.

23 A. Of course, we work from the river;
24 we are on the river itself.

25 Q. You are on the river?

26 A. We do not stand on shore and look at
27 the traffic.

28 Q. In respect to ship handling such
29 as turning, for instance, how have you come to the
30 conclusion that you needed a certain length of river



1 or a certain width of river in order to do it safely?

2 A. Well, that is a matter of getting
3 as much data and information as possible from people
4 who are using vessels -- and that includes pilots.
5 They are, after all, the experts on the river.

6 Q. Yes. Do you know if they were con-
7 sulted on the areas that they would require for anchor-
8 ing their ships, for turning, for meeting?

9 A. Certainly for turning; we have had
10 sketches from them.

11 Q. From the pilots?

12 A. From the pilots on this particular
13 problem here.

14 Q. I see, and have you given some
15 thought to the fact that the bridge structure, the
16 pillars, might form an obstacle to radar observations
17 of traffic in the river, oncoming traffic, whether the
18 ship goes up or down the river? The pillars might
19 obscure a part of the river on the radar screen?

20 A. Yes, it is quite likely, but cer-
21 tainly I do not think we have had that particular pro-
22 blem to study. We are getting into other areas now
23 of interest -- marine regulations and so forth, but
24 it really involves more than the Division which I
25 represent.

26 Q. I see. But the Division which you
27 represent did consult with the pilots and you obtained
28 sketches or diagrams of what would be the required
29 turning area?

30 A. Right.



1 Q. Would the final results of the plan
2 be in agreement with what the pilots suggested?

3 A. As a matter of fact we in our first
4 examination of these plans found we had to reduce the
5 area a little bit because of the large volume of
6 dredging involved. Dredging is a very costly busi-
7 ness and we would try to get as much room as possible
8 without unduly increasing the cost.

9 Q. Well, you say "reduce a little"; what
10 do you mean by "a little"? Let us talk about area-
11 wise -- one per cent, five per cent or twenty-five
12 per cent?

13 A. In some cases more than that be-
14 cause a certain line may be drawn up on a high bank
15 and by moving it in, reducing the area say by twenty
16 per cent, you might reduce the volume by seventy-five
17 or eighty per cent.

18 Q. The volume of dredging?

19 A. The volume of dredging.

20 Q. I am talking about area, because that
21 is what is important for the pilot. He does not care
22 how much volume there is, but his ship must have so
23 much room to swing.

24 A. Yes. Well, we would try to reduce
25 area as little as possible and make the greatest use
26 of available depth in the river without going in on
27 high banks.

28 Q. Would it be fair to say that there
29 is substantial agreement between your final plans and
30 suggestions made by the pilots?



1 A. There is substantial agreement
2 although our estimates probably are a little smaller
3 than those presented by the pilots.

4 Q. Have you submitted your final plans
5 to the pilots for making them official?

6 A. Well, they are not. I remember we
7 had a discussion with them. I cannot answer that. I
8 believe we had a meeting with them since then, but I
9 am not sure. But we certainly intend to tell them
10 what we are finally planning. It has not been pre-
11 sented to the department yet.

12 Q. Oh, I see; I am sorry.
capital

13 A. Our/estimates are not in yet.

14 MR. LALONDE: On this subject, could
15 you tell me what is the estimated cost of the dredging
16 of Three Rivers for this particular purpose of turning
17 area?

18 THE WITNESS: Well, I have not got
19 those figures right now; I am sorry.

20 MR. LALONDE: You have no idea what
21 range it would be -- in the millions or the hundreds
22 of thousands?

23 THE WITNESS: Oh, it would be over
24 a million.

25 THE CHAIRMAN: That is the capital
26 dredging?

27 THE WITNESS: Yes.

28 THE CHAIRMAN: And then you have
29 maintenance dredging afterwards?

30 THE WITNESS: There will not be very



1 much maintenance dredging involved in this area. It
2 is a very clean part of the river. Any capital work
3 is there permanently.

4 MR. LANGLOIS: Mr. Land, have the pilots
5 made any requests regarding the submarine cables that
6 are located above the Harbour of Three Rivers, regard-
7 ing relocation of these submarine cables?

8 THE WITNESS: Frankly I just do not
9 remember whether we have had any requests in our office
10 about that. I do not recall.

11 MR. LANGLOIS: I am instructed that
12 the pilots were told that these submarine cables would
13 be relocated under the position where the new bridge
14 is supposed to be constructed?

15 THE WITNESS: Yes, most likely they
16 would be. They would have to be relocated because of
17 the turning of the ships and all that. They would be
18 a hazard to manoeuvre the ships.

19 MR. LANGLOIS: But you have had no
20 requests to that effect?

21 THE WITNESS: Well, in my office.
22 I do not know whether we have anything on file in my
23 office. We would not be directly involved in the
24 moving of them in our division.

25 MR. LANGLOIS: Is it your intention
26 to recommend such a ---

27 THE WITNESS: Certainly if we get
28 requests, definitely so.

29 MR. JACQUES:

30 Q. Question No. 4, now -- any plans for



1 further improvements of ship channel? I believe you
2 have already answered that in part, stating that you
3 were making a survey and that you had let out contracts
4 for further dredging in the Batiscan area. Do you
5 have anything to add to what has already been said?

6 A. Yes. There is one area which I
7 know has been requested verbally. There are a lot of
8 verbal requests which are not on paper -- from Montreal
9 to Vercheres. It is a narrow portion of the channel.
10 It has 550 feet minimum width. We are intending to
11 widen that to 800 feet starting next spring.

12 Q. Who made the request?

13 A. Well, it is part of our programme.
14 It is the programme which was definitely drawn up
15 years ago. But I have had occasion to speak to pilots
16 privately and they would be very happy to see it done.
17 So we are definitely going ahead with that.

18 There has been some difficulty in
19 the fact that any dredging done in that area will
20 reduce the water level in Montreal harbour. Now to
21 this end we have studied the effect of this dredging
22 by means of our models. We would lose, in inches,
23 it would be approximately three inches of depth in
24 Montreal harbour if we dredged this without any com-
25 pensation works.

26 Q. What would be the nature of those
27 compensation works?

28 A. Well, it is the distribution of the
29 dredging spoil in such a way as to give us a back-
30 water effect -- that is, hold back the velocity in



1 certain areas which will balance the loss of the depth
2 in the upper harbour. In fact we would have a
3 damming effect by putting the dredged material near
4 the channel in such a way ---

5 Q. That the water would be retained up
6 river?

7 A. Yes, a portion of the water would be
8 retained. We have studied this on our model. The
9 first exercise was not too successful because it meant
10 placing this material in a way which would be rather
11 difficult for a contractor doing the dredging. He
12 would have to build up special retaining dykes and
13 so forth.

14 Now we have got another plan which
15 we are putting on the model this week and the compu-
16 tations have already shown us that it will be possible
17 to balance the effect of the dredging, so we hope to
18 have the answer.

19 Q. But would it not also have the effect
20 of increasing current velocities of the channel?

21 A. That is another thing we are study-
22 ing concurrently with the other problem. We do not
23 think that it would increase the velocity to such an
24 extent as to affect steering. The current direction
25 would still be straight. Also I do not think we
26 would have velocities that would cause any erosion.

27 Q. Would you have an idea of what the
28 velocity would be then?

29 A. Well, instead of having, say, a
30 $2\frac{1}{2}$ -knot current we might have a $3\frac{1}{2}$, or something like



1 that. It would be a comparatively small increase in
2 velocity.

3 COMMISSIONER SMITH: Mr. Land, would
4 the spoil deposit programme that you outlined have the
5 same effect of backing up the water as the Sorel dams
6 have?

7 THE WITNESS: It would have an effect
8 of that nature -- not quite the same, because the Sorel
9 dams backed up the water in Sorel about a foot and in
10 Montreal it would be close to five inches. This is a
11 smaller operation and it would have a relatively smaller
12 effect, but sufficient to balance the loss.

13 COMMISSIONER SMITH: In principle
14 the same?

15 THE WITNESS: Yes.

16 MR. JACQUES:

17 Q. Finally, one last question, which I
18 was directed by the Department of Transport to ask you,
19 and I shall read the question: "With reference to the
20 regulations for the St. Lawrence River P.C. 1954-1925,
21 can you tell us whether any breaches were reported
22 and/or prosecuted during the last five years and, if
23 so, give details?"

24 A. The answer would be No, there. In
25 our division we have no means of prosecution and we have
26 no means of policing. I notice this question is there.

27 Q. Yes.

28 A. We can only pass on any reports that
29 are placed with us, any reports of breaches. We do
30 have people moving buoys without notifying us or



1 notifying the agencies and they are sent letters
2 pointing out their breaches of the regulations, but
3 so far as I know there have been no prosecutions.

4 MR. JACQUES: Thank you.

5 MR. BRISSET: Mr. Land, who would be
6 moving buoys like this to whom you would be writing
7 letters?

8 THE WITNESS: Well, sometimes the
9 dredging contractors. They have a dredge and there is
10 a buoy in the way and instead of sending a hurried
11 call to the agency or to ourselves, which is the nor-
12 mal procedure, they go ahead and look around. They
13 do not see anyone on the river, so they just move the
14 buoy and we hear about it later.

15 MR. BRISSET: Thank you, sir.

16 ---Witness withdrew.

17
18
19 MR. MCGILLIVRAY: My lord, before
20 Captain Slocombe is asked any questions I wonder if I
21 might make a request of the Commission?

22 Yesterday in dealing with Question 23
23 in the morning a considerable number of questions were
24 put to Captain Slocombe concerning the facts surround-
25 ing the case of the OAK HILL casualty, and of the
26 CONTINENTAL PIONEER casualty on the 25th August and
27 5th September respectively in 1962.

28 Unfortunately I had been absent from town
29 for a couple of weeks. I had not been expected to
30 attended yesterday's hearing until about half an hour



1 before it opened and I was unaware that an action had
2 been commenced against the Crown in connection with the
3 assignment of the pilot to the CONTINENTAL PIONEER.
4 Had I been aware of this I would have requested you to
5 stop the questioning, during which Mr. Brisset was
6 getting a free examination for discovery.

7 I consider that this line of question-
8 ing was improper and that the Commission should not
9 insist on Captain Slocombe producing the further in-
10 formation that he undertook to produce in this regard.
11 Indeed I think the Commission might consider whether
12 it would not be proper to strike the whole of that line
13 of questioning from the record.

14 THE CHAIRMAN: Well, it would not
15 help in any event now. The only effect would be from
16 Mr. Brisset's point of view. The facts are there. It
17 is only an example of what could be and all this infor-
18 mation he could have had anyway later on, and so could
19 we. So we are going to leave what is in the record,
20 but as regards further examination we will not allow
21 this line to be continued. Mr. Brisset, have you
22 any objection?

23 -

24 -

25 -



1 MR. BRISSET: No, my lord. In
2 fact there is already considerable evidence before the
3 action was commenced, and I don't think anything could
4 be added to what is already in the record, in the
5 evidence.

6 THE CHAIRMAN: There is no doubt
7 when we come to this other information we might ask
8 for it on our own. As we said, these are two cases
9 that were discussed before the Commission and we would
10 take them as examples of what is being done, and we
11 would by ourselves have reference to them.

12 MR. BRISSET: I am quite satisfied
13 to to leave it at the moment, and we shall, of course,
14 have discovery later on.

15 THE CHAIRMAN: We know there is
16 another medical certificate which should the Commission
17 wish to see it, the Commission will.

18 MR. JACQUES: But the witness will
19 not be required to file documents later on?

20 THE CHAIRMAN: No, later on should it
21 be necessary that we see it in order to satisfy our-
22 selves, we will go into it ourselves.

23 MR. MAGGILLIVRAY: Thank you, my
24 lord.

25 CAPTAIN SLOCOMBE, sworn

26 DIRECT EXAMINATION BY MR. JACQUES:

27 Q. Yesterday we had skipped one question,
28 Question 36, with reference to an advisory board. This
29 advisory board was mentioned by you in the course of
30



1 evidence which you gave on September 30th at Montreal,
2 as reported in Volume 69, page 8510.

3 A. These are pilotage advisory committees.

4 Q. They are the same thing? The
5 board is the same thing as the committee?

6 A. There is nothing else.

7 Q. So it is just another name for the
8 same thing which has been called local pilotage committee,
9 local advisory committee?

10 THE CHAIRMAN: Pilotage committee,
11 advisory committee?

12 THE WITNESS: The pilot committee,
13 the local pilotage advisory committee is the name we
14 gave to these committees, and these are the only ones
15 there are.

16 Q. This board would have been the local
17 pilotage advisory committee?

18 A. That is right.

19 Q. It is no different?

20 A. No, this is correct. This idea was
21 first mooted by the Shipping Federation. I haven't
22 just got the year yet, but I can tell you this later.
23 We thought it was a good idea and so we agreed to try
24 this out.

25 Q. But this was strictly a local affair?
26 It was not a board or advisory committee for the whole
27 of Canada? It was by districts?

28 A. By district was as far as we went.
29 The Federation recommended a twofold system, as you
30 might say.



1 Q. Yes?

2 A. Whereby there would be local pilotage
3 advisory committees, one in each district, which would
4 consist of representatives of the pilots and the
5 department and the shipping interests. Also, and I
6 am now speaking from memory, there was also sug-
7 gested that there should be a central advisory board
8 which would probably meet in Ottawa on a permanent
9 basis, which would consist of fewer people, but
10 representatives of the department and the shipping
11 interests.

12 Q. Were the pilots to be represented
13 on it?

14 A. I am not quite sure at the moment.
15 I don't think so, but then anyhow, it was decided not
16 to go along with the larger issue at the moment, first,
17 anyhow, although the possibility was not ruled out.
18 However, we did go along with the idea of the local
19 pilotage advisory committees, and these committees
20 were set up by naming representatives in each district.

21 Of course, the members would be
22 members of the pilots' committee of the district. The
23 personnel might change and would change from year to
24 year probably, and the shipping interests would name
25 their representatives, and would of course be free to
26 change them from time to time.

27 It was thought that the local super-
28 visor of pilots would be the chairman of these local
29 committees. There is evidence of course on this in
30 other places.



1 Q. You filed during the previous hear-
2 ings in Ottawa the terms of reference of that committee
3 for Halifax?

4 A. The terms of reference were the same
5 all over.

6 Q. They were the same all over?

7 A. Yes. The year was 1958 when these
8 committees started. Now, of course, it was understood
9 that such an advisory committee, while we thought it
10 would be useful to have the opinion of such an advisory
11 committee on disciplinary problems, it was understood
12 that the committee would have no legal power. It
13 would only be a matter of making recommendations to
14 the Pilotage Authority.

15 The question I believe I am asked
16 is when created. Well, I can't tell you when the
17 Quebec District one was actually created. I could find
18 it, I suppose. Well, the reports we have are for
19 1959, and as this took some time to arrange and get
20 agreement on it, the first meetings in Quebec anyhow
21 were in 1959. I think I have explained why they
22 were created.

23 I see you have here "advisory board".
24 You are under the impression in this question that
25 there was something different. You refer to "it".

26 Q. Because the evidence mentioned an
27 advisory board, and it was the first time we had heard
28 that expression.

29 A. Well, there is no such thing, but
30 as far as advisory committees are concerned, do you



1 require this information or is there sufficient on
2 file?

3 Q. Well, if you will bear with me just
4 a moment, I show you Exhibit 1177 which is entitled
5 Halifax Pilotage District Local Advisory Committee
6 Terms of Reference. Can you tell me whether the terms
7 of reference for the Quebec local advisory committee
8 are similar to those of Halifax?

9 A. Yes, as far as I know there was no
10 difference in any of the districts.

11 COMMISSIONER SMITH: Captain, I
12 would like to quote from the evidence of Captain
13 Gendron. I am sorry I haven't the reference, but
14 you will recall it I am sure. Captain Gendron
15 testified he was chairman of the committee set up
16 some years ago composed of pilots, shipowners,
17 representatives of DOT and the Dominion Marine
18 Association to study casualties and apply sanctions
19 or entirely release pilots from blame. The first
20 occasion the witness said the recommendation was partly
21 followed. He said the committee folded up after a
22 couple of meetings, recommendations, he said, being
23 more or less ignored. He said they would usually
24 recommend certain sanctions for a number of months
25 or fines, and they were usually brought down to a
26 couple of weeks where he said he found it wasn't having
27 any effect at all. He was under the impression the
28 whole system needs to be renovated. Would you have
29 any comments to make on that?

30 THE WITNESS: Yes. My comment is



1 simple. If Captain Gendron thought his recommenda-
2 tion was bound to be followed, he shouldn't have been
3 in the civil service.

4 COMMISSIONER SMITH: I don't think
5 that is an answer.

6 THE CHAIRMAN: This is the old
7 question in any event. The advisory committee is not
8 a committee to decide, to make a final decision. It
9 is just an advisory committee on something to give
10 advice to the Authority. Therefore those sitting on
11 that would know their decision was not bound to be
12 one followed by the Authority; otherwise it would not
13 have been an advisory committee. It would have been
14 a court.

15 THE WITNESS: I think the terms of
16 reference clearly say to make recommendations. But
17 I can go a little further: I was being a little face-
18 tious about the matter, Mr. Smith, but the thing is
19 local advisory committees were dealing with these
20 subjects from a practical point of view. I may say
21 that usually they arrive at very natural conclusions,
22 but when the recommendation came to Ottawa it had to
23 be facts. The evidence had to be looked at with a
24 closer legal eye with regard to the admissibility
25 of evidence, and so on, and frequently it was found
26 the evidence was not sufficient.

27 MR. JACQUES: Would you say with
28 a closer political eye also?

29 THE WITNESS: No, I do not say that.
30 Politics did not come into this.



1 MR. BRISSET: Captain, would you
2 think that this committee was entitled to believe that
3 its recommendations would be followed or would not?

4 THE WITNESS: Well, I don't see
5 why they would be sure of this. Certainly we didn't
6 intend to give anybody the impression that this recom-
7 mendation would be the final word.

8 MR. BRISSET: Well, put it the
9 other way: do you think that this committee should have
10 been under the impression that their recommendations
11 would not be followed?

12 THE WITNESS: No. May I say we
13 would like the recommendations to have been followed
14 but we can't always do what we think is the practical
15 thing because of the legal aspects.

16 MR. BRISSET: I gather you disagree
17 with Captain Gendron when he seems to intimate in his
18 evidence the reason the committee disbanded is that
19 they found their recommendations were never followed?

20 THE WITNESS: This is not quite true.

21 THE CHAIRMAN: If I may sum up the
22 result of the trial of those / ^{advisory} committees, they
23 were successful only in one section. It was really
24 an advisory committee giving advice on non-contentious
25 matters. In Halifax, for instance, it was working
26 very well. It is still working when they give advice
27 to Aids to Navigation or to rearranging the service,
28 pilotage service. This is the Halifax pilots.

29 In B. C. it was another type alto-
30 gether. It changed after a few meetings to a concilia-



1 tion board, and then it is not working satisfactorily
2 over there. It is a conciliation board between the
3 pilots and the shipping interests over tariffs, remunera-
4 tion and so on, with the superintendent as chairman.
5 So it is not working too well there, as we recall.

6 In Montreal and Quebec it took over
7 the matter of discipline, and as a quasi court it was
8 not successful at all.

9 I think this sums up this experience
10 you have?

11 THE WITNESS: This is so, my lord.

12 THE CHAIRMAN: In order to avoid
13 frustration -- it was maybe a question of lack of
14 lack of understanding of the nature of the committee--
15 but it could have been avoided also when advice was
16 received and if it is not followed, that they would
17 be notified so that the ones who gave that advice
18 which was not followed could have seen and understood
19 the reason why.

20 MR. JACQUES: If your lordship would
21 permit me, would you file Minutes of the ^{Quebec} committee,
22 Minutes of the meeting of the committee and also append
23 to each the recommendations made by the committee
24 the eventual decision taken and the reason why the
25 advice was not followed?

26 THE WITNESS: We can do this. I
27 have a copy here ready, but I would think it would be
28 simpler to put the extra information that ^{you} ask for
29 and attach it to these and put them in evidence.

30 MR. JACQUES: Yes, that would do.



1 It will be Exhibit 1321, Minutes of the Quebec Local
2 Advisory Committee together with ultimate decision
3 taken by the department and reasons why the advice
4 of the committee was not followed.

5 MR. BRISSET: And whether the com-
6 mittee was advised of these reasons.

7 MR. LALONDE: If I remember well,
8 my lord, the Minutes of the Quebec Pilotage Committee
9 advisory board were filed.

10 ---EXHIBIT NO. 1321: Minutes of Quebec Local
11 Advisory Committee, with
12 ultimate decision of de-
13 partment.
14
15 -
16
17
18
19 -
20
21
22
23 -
24
25
26
27 -
28
29
30



1 THE CHAIRMAN: Mr. Morisette, will you
2 check whether these Minutes have already been filed?

3 Captain Slocombe, do you know
4 whether when advice was received from the advisory
5 committee and it was not followed whether the committee
6 was given the reasons why?

7 THE WITNESS: Oh, not formally, my
8 lord. The chairman would know, the local supervisor
9 would be told that there was not enough evidence or
10 something like this, the reason. We made no arrange-
11 ment to officially inform individual members. We would
12 contact the chairman and inform them of these facts.

13 MR. JACQUES: To the best of your
14 recollection there was information passed on to the
15 committee?

16 THE WITNESS: To the chairman of
17 the committee.

18
19 CROSS-EXAMINATION BY MR. LALONDE:

20 Q. Captain Slocombe, his lordship has
21 pointed out that trouble seemed to arise from con-
22 tentious matters, or should we call it maybe disci-
23 plinary matters or problems of that character, and
24 maybe if the local advisory committee had been
25 concerned with other matters it could have worked
26 better. Are you aware that in effect on non-
27 disciplinary matters there is for all practical pur-
28 poses a similar system, although not official, not
29 formal, which is in operation? That is, you get
30 joint representations from shipowners and from the



1 Shipping Federation and the various groups of pilots;
2 like, for instance, the work which was done in connec-
3 tion with the erection of the Escoumains station? Is
4 it not a fact they had a representative of the shi-
5 owners and the department and the pilots working to-
6 gether and arriving at a proposal? Do you remember
7 that?

8 A. Oh, yes.

9 Q. Are you aware that in the Montreal
10 district, for instance, you have had representations
11 from both pilots and shipping owners in connection
12 with signal stations, for instance, or in connection
13 with the construction of the Three Rivers bridge, or
14 in connection with loss of personnel at the pilotage
15 station? Are you aware of such representations being
16 made by the shipowners and pilots more or less jointly?

17 A. On occasion, yes. It was just, I
18 think, that the thought was this would be a continuing
19 liaison between the pilots and the shipping interests,
20 the shipping agents, so that there would be better
21 understanding and discussion between them. We thought
22 this was a very good idea but as you see the effect
23 to a certain extent has been achieved by the joint
24 discussions as you have mentioned. As you were
25 aware we have had many, many joint meetings with
26 Shipping Federation representatives, the Dominion
27 Marine Association representatives and the pilots'
28 representatives back over the years and we have tried,
29 of course, to carry out this principle that this was
30 supposed to be a more permanent set-up.



1 Q. Are you aware that pilots get in
2 touch with the Shipping Federation occasionally when
3 the need arises in connection with problems of that
4 sort and they make joint representations to you; maybe
5 separate representations but on the same subject and
6 in agreement?

7 A. Yes, this is a very good thing.

8 Q. You are aware of that?

9 A. Yes.

10 DIRECT EXAMINATION BY MR. JACQUES:

11 Q. In other words, you are providing
12 a structure for what were perhaps informal meetings
13 and information joint representations prior to that?

14 A. I did not understand that.

15 Q. You were providing a structure for
16 these joint meetings?

17 A. By means of the local advisory, yes;
18 a more permanent structure and one that would meet
19 more frequently and it would be known that there would
20 be meetings for exchange of views.

21 Q. Tell me why were disciplinary matters
22 referred to that joint committee?

23 A. I must admit this was my idea, Mr.
24 Jacques. We were having so much trouble with the
25 disciplinary problems we thought it would be useful
26 to have the opinion of a board, of a committee, which
27 would represent all the interests concerned but it was
28 a trial and it did not work.

29 Q. But the information which you sought,
30 was it as to whether an offence was committed or not



1 or as regards the punishment to be meted out?

2 A. It was to consider the actions of a
3 pilot who was said to have committed an offence and
4 to express an opinion as to whether he was guilty or
5 not and if he was guilty to give again an expression
6 of opinion as to a suitable penalty in their view, in
7 the view of the committee.

8 COMMISSIONER SMITH: Just on that
9 point, captain. As I remember, previously Captain
10 Gendron said that in their recommendations they were
11 usually brought down, if they mentioned months it
12 was brought down to a number of weeks?

13 THE WITNESS: "Usually" is not so,
14 Mr. Smith. This is a wrongly used word.

15 COMMISSIONER SMITH: This is
16 his evidence; is it wrong?

17 THE WITNESS: Yes, sir, it is. It
18 is not exact, I must say. In this regard in Ottawa
19 in the final recommendation to the Pilotage Authority
20 we have to take into account penalties imposed for
21 similar offences in other cases right across the
22 country and this was the reason why the recommendation
23 of the local committee was not always followed.

24 MR. JACQUES:

25 Q. Were you not placing yourself in a
26 very, very difficult situation because on this com-
27 mittee an official of the Department of Transport was
28 serving while discussing disciplinary matters?

29 THE CHAIRMAN: You mean of the
30 Authority.



1 MR. JACQUES: Of the Authority.

2 There was an official of the Authority present while
3 discussing disciplinary matters. Is that not a
4 fact?

5 A. Oh, yes; but this does not neces-
6 sarily mean that that particularly official's recom-
7 mendations would be followed. Often in the department
8 officials have disagreed on the heinousness of the
9 particular offence and would have different ideas as
10 to how it should be punished. Then again you have to
11 think about the record of the man.

12 Q. We were told in disciplinary matters
13 the thing first went to the local supervisor, from the
14 local supervisor to the regional superintendent, from
15 the regional superintendent to somebody in Ottawa, and
16 there was a chain of command of, I think, six persons
17 expressing their opinion on the same matter and out
18 of those six one of them was sitting on this local
19 advisory committee as chairman or what not, but as an
20 official representative of the Pilotage Authority.
21 Then the recommendation of the local advisory committee
22 was sent to the department and this official had to
23 express again an opinion on the recommendation of the
24 committee?

25 A. Oh, no, if the official of the
26 department had been the chairman, well, that would have
27 been his recommendation.

28 Q. I see. He was not asked to express
29 an opinion on the decision of the committee?

30 A. No. This would be in his report.



1 Making the report it would be "as chairman this is
2 the recommendation of the committee which I endorse."

3 Q. I see. Thank you.

4 THE CHAIRMAN: We have the difficulty
5 here between this committee and the intradepartment
6 committee you tried to have which was a different one
7 which was in Ottawa.

8 THE WITNESS: This was exactly
9 apropos of this question, my lord. I know this came
10 also in Captain Gendron's testimony. I have a high
11 regard for Captain Gendron and I am sorry he felt his
12 nose was put out of joint in this matter. The fact
13 remains he did make a recommendation at one time which
14 I did not agree with and when it came over my desk I
15 looked at it and I happened to know the waters he
16 was talking about and I felt he was being unfair.

17 COMMISSIONER SMITH: Was that
18 personal opinion or did that emanate from the committee?

19 THE WITNESS: No, there was no
20 committee. This would be when we held a preliminary
21 inquiry in the usual way and had made the recommen-
22 dation. I had to disagree. I didn't think it was
23 being fair because I knew the waters and I suggested
24 then it was not good that we contradict each other
25 in this way and that it would be better if we got
26 together in a sort of committee, if you like, to discuss
27 any case of casualty. This is so we would have a
28 meeting of nautical minds and so we could pool our
29 experience. Some of us have experience on the Great
30 Lakes and some of us don't and then we could reach an



1 agreement and decision. This was followed for a while.
2 This was just before the Commission started the hear-
3 ings and I started travelling with the Commission and
4 I am not sure whether this same principle is being
5 followed now.

6 MR. JACQUES:

7 Q. There is a question in a subsequent
8 section relating to inquiries on this very problem?

9 A. Yes. This will be dealt with.

10 THE CHAIRMAN: This disagreement with
11 a person's judgment is something that you find in all
12 walks of life. I know that the decision of a judge
13 of the Superior Court is not always followed by the
14 Court of Appeal and we console ourselves by thinking
15 the Supreme Court has been known to disagree with the
16 Court of Appeal also. They are not always unanimous
17 among themselves either.

18 CROSS-EXAMINATION BY MR. BRISSET:
19

20 Q. Captain, one of the reasons you
21 have given to justify a review of the recommendation
22 of the local advisory committee is that you would in
23 Ottawa have a look at the record of the pilot involved,
24 his past record. Surely, captain, the committee
25 would have it before its members, the record of the
26 pilot involved?

27 A. Yes, I think they would, Mr. Brisset.
28 That is correct.

29 Q. So they would also take into account
30 the past record of the pilot when they made the



1 recommendation?

2 A. I would think so, yes.

3 Q. Now, coming back to Captain Gendron's
4 evidence and the facts already before the Commission,
5 is it correct to state that in every case the recom-
6 mendation of the advisory committee was not followed?

7 A. No. It is not correct to state
8 that.

9 Q. In Quebec, I am speaking of?

10 A. No, this is not correct to state that.

11 Q. How many cases were dealt with by the
12 advisory committee?

13 A. I have four cases here and these
14 are the only ones that we have on file in Ottawa. I
15 don't think there were any dealt with not on disci-
16 plinary matters by the local committees. Quebec
17 office, in the Quebec files of meetings of this
18 advisory committee we don't know how many there were
19 or when they sat, when they met, but I don't think
20 they dealt with any disciplinary matters other than
21 we have a record of here in which the departmental
22 officers from the headquarters were involved.

23 Q. In other words, there were four cases
24 dealing with disciplinary matters that were considered
25 by the Quebec advisory committee as far as you know?

26 A. Yes, and of those at least two were
27 followed.

28 Q. Completely?

29 A. Yes.

30 Q. And two not followed?



1 A. Yes.

2 Q. I am advised that the representatives
3 of the shipping owners, the Shipping Federation, in the
4 cases where the recommendations were not followed wrote
5 you to obtain reasons for non-following, reasons why
6 their recommendations were not followed. I am told
7 that the information was never supplied. Was there
8 any reason for that?

9 A. Were they told that it would not be
10 supplied?

11 Q. Well, their request was ignored.
12 That is the way it is put to me here.

13 A. We would have to search the files
14 for this, Mr. Brisset. I don't know. There would
15 be no intention of just ignoring it, I am sure.

16 MR. LALONDE: Is the search going to
17 done in this matter?

18 THE WITNESS: Yes. We certainly
19 will look for this.

20 MR. BRISSET:

21 Q. Now, in all these cases where a
22 recommendation was made by the advisory committee was
23 the final decision or final recommendation that went
24 to the Minister made by yourself, captain? I am
25 just trying to understand the procedure here. You have
26 the recommendation of the Quebec advisory committee
27 that was sent to Ottawa and on whose desk did it final-
28 ly land when the final recommendation to the Minister
29 was made?

30 A. If I were there then it would go over



1 my desk and I would comment on it one way or the other.

2 Q. In other words to be quite frank
3 about it what I am asking is: Who took the respon-
4 sibility eventually for disagreeing with the recom-
5 dation of the advisory committee?

6 A. We should not have this. This is
7 a departmental decision in the end and I must accept
8 responsibility for anything the department does the
9 same as the deputy minister must accept responsibility
10 for what I do.

11 THE CHAIRMAN: It is the Authority.

12 MR. BRISSET:

13 Q. I understood your evidence was to
14 the effect you were the one responsible for the for-
15 mation of this committee.

16 A. I am afraid I was, mistakenly, I
17 think; but not for the committee, no. I still think
18 the idea of the Federation was very good as it is work-
19 ing in other places but it falls into uselessness if
20 the pilots are approaching the Pilotage Authority
21 directly. The idea here was that they would be a
22 local body which would resolve problems locally. This
23 is the idea as I understood it and it would avoid the
24 headquarters being continually mixed up in local
25 problems but as long as the pilots approached the
26 Pilotage Authority directly then there is no use of
27 a local committee.

28 THE CHAIRMAN: It was an attempt
29 to place back the authority where it should be, the
30 local authority?



1 THE WITNESS: Exactly, my lord.

2 It was an attempt to decentralize.

3 MR. BRISSET:

4 Q. Coming back to the disciplinary
5 side of the functions of that committee, captain,
6 would you not agree that in view of the fact that the
7 committee was composed of pilots working in the district
8 of the pilot whose action was being reviewed; also
9 representatives of shipping owners and I understand
10 they were in these cases masters of ships having had
11 experience in the river, would you not agree that if
12 there recommendations were not followed in some cases
13 it was not because of technical or nautical lack of
14 experience but other reasons?

15 A. Do you mean the strict party line,
16 Mr. Brisset?

17 Q. I don't know. Certainly you were
18 not reviewing these decisions because you did not
19 have confidence in the technical knowledge of the
20 members of the committee?

21 A. No.

22 Q. So if it was not that it was for some
23 other reason. You mentioned, I think, legal reasons
24 a minute ago.

25 -

26 -

27 -



1 THE WITNESS: Well, this is of
2 course the case. We have very often expressed an
3 opinion based on our practical knowledge that a certain
4 course should be taken, but we find that this would not
5 stand up in a court if it were challenged.

6
7 CROSS-EXAMINATION BY MR. LALONDE:

8 Q. Captain Slocombe, you raised the
9 point that these local committees would be an attempt
10 to decentralize administration and this system was
11 useless if pilots were approaching the Pilotage
12 Authority. Is it not a fact that this local pilotage
13 committee only recommends as you have said?

14 A. Correct.

15 Q. It has no power of decision even
16 locally on the most minute matters?

17 A. Oh, yes, because normally the local
18 superintendent or supervisor, the regional superintendent
19 in the St. Lawrence would be the chairman and there are
20 many, many decisions that he could make locally.

21 Q. Yes. These would be decisions of
22 these local supervisors anyway?

23 A. Yes.

24 Q. Not of the committee itself?

25 A. This is correct.

26 Q. He has no power at all?

27 A. No. It would just assist him in
28 making decisions which should be pleasing to everybody.

29 Q. Yes. Up to the extent of the powers
30 of the local supervisors I think we have enough evidence



1 in Montreal, Quebec and elsewhere as to how much power
2 they really have, but do you not think, do you not
3 agree that in effect what you were setting up there
4 was only another -- I would not call it "bylaw" --
5 another step in the administrative process of decision
6 on matters which should normally be decided either by
7 the local supervisor or here in Ottawa and the pilots
8 would go to that committee and have a meeting or two
9 meetings or three meetings, have a recommendation sent
10 to whoever should make a decision and then start all
11 over again?

12 A. No, not necessarily. If it were
13 something that had a practical aspect on the district,
14 if both shipping interests and pilots are in agreement
15 on something and it is not going to cost the taxpayers
16 anything, there is really no reason for us to go
17 against it.

18 Q. I submit to you that the experience
19 is not quite to that effect. Secondly, there are very
20 few things which do not cost anything to the taxpayer,
21 be it only changing a light somewhere.

22 THE CHAIRMAN: I can see some diffi-
23 culty with regard to the question of district matters
24 and contentious points. The difficulty with regard
25 to contentious points is that you make the parties the
26 advisers. They cannot be advisers and the parties
27 because they are interested. So at first glance I
28 think this is the problem there.

29 We will adjourn for ten minutes.

30 ---Short recess.



1 ---Upon resuming.

2 MR. JACQUES:

3 Q. I believe Questions 37 and 38 are al-
4 ready answered.

5 A. I do not think No. 38 has been.

6 Q. On 38 you gave us figures. In 1960
7 there were no fines; in 1961 there were two and in
8 1962 there were three, I believe?

9 A. This is correct. I had forgotten
10 I had given them.

11 Q. Question 39; you might recall that
12 in 1961 the CANUK TRADER had requested the pilots to
13 go up to Chicoutimi and this gave rise to comments
14 on the part of the pilots to the effect that the ship
15 was too large to go up there, or something to that
16 effect.

17 MR. LALONDE: Before the answer
18 is given to this question, my lord, I would like to
19 register some objection go the wording of Question 39
20 where the word "directive" comes -- "directive issued
21 by Pilots' Corporation". I think that the evidence
22 which has already been filed does not support such a
23 statement.

24 THE CHAIRMAN: Maybe that is the
25 inference that the reader may have gathered from that.

26 MR. JACQUES: My lord, I would refer
27 the Commission to Exhibit 688, a bulletin issued by
28 the Board of Administration of the Corporation of
29 Lower St. Lawrence Pilots dated 5th October, 1961.
30 This is in French and I might just translate briefly



1 one paragraph, the sixth paragraph.

2 "After these decisions if the company
3 decides to send the ship up to Chicoutimi,
4 here is what we suggest in order that there
5 may not be any infractions of the bylaws."

6 Is that a proper translation? So let us say it is
7 a suggestion.

8 THE CHAIRMAN: But we have heard
9 somewhere else that suggestions from pilots to the
10 masters are really directives.

11 MR. JACQUES: Could be, my lord.

12 MR. LALONDE: But it may be a wrong
13 inference to conclude from this that a suggestion from
14 a pilot to another pilot is a directive.

15 MR. JACQUES:

16 Q. Yes?

17 A. Well, the department's attitude on
18 this kind of thing -- which does not only occur there
19 at Chicoutimi but any place where the pilots feel that
20 the manoeuvre they are being requested to make is
21 not safe -- is that they should inform the master so
22 and explain the circumstances to him. But if the
23 master insists upon his assisting him in performing
24 this manoeuvre, then the pilot should, or he may
25 say, "Well, I will help you all I can, but I am not
26 taking any responsibility for what may happen."

27 Q. Why this statement "I am not taking
28 any responsibility for what might happen"?

29 A. Because if he does it he has said
30 he is doing it against his better judgment.



1 THE CHAIRMAN: In other words he
2 has said there are some risks involved and, well,
3 should you wish to do the manoeuvre, then the risks
4 may materialize.

5 THE WITNESS: This is so, my lord,
6 yes.

7 MR. LALONDE: And if there is an
8 accident the pilot may lose his licence, if he were to
9 be found to have without objecting done his manoeuvre
10 which would be found very dangerous or risky.

11 THE CHAIRMAN: Yes, but in cases
12 like that he would have done his duty in advising the
13 master against it, in advising against the risk.
14 Maybe the master will say: "This is a risk we should
15 take." If it materializes that there is an accident
16 and so on, there is of course no blame to be given
17 because the situation was well explained by the
18 expert, who is the pilot.

19 MR. LALONDE: That was the substance
20 of the suggestion contained in the exhibit.

21 THE WITNESS: And we have no
22 quarrel with this principle, my lord. But we do
23 stress that if the master does insist on proceeding
24 with the manoeuvre then the pilot must do all in his
25 power to use all the best skill he has in order to
26 perform it successfully.

27 THE CHAIRMAN: He should not with-
28 draw; he should give all his knowledge and all his
29 ability.

30 MR. JACQUES:



1 Q. Now, if I may, these suggestions are
2 as follows, and I translate from Exhibit 688:

3 "The pilot must board the vessel and
4 inquire from the master her destination. If
5 he must proceed to Chicoutimi he must remind
6 him that in accordance with Section 20,
7 paragraph (f), he fears for the security of
8 the ship if he proceeds up the channel."

9 Now Section 20, subparagraph (f) must be of the Quebec
10 bylaws, and it reads as follows:

11 "No pilot or apprentice shall refuse
12 except on reasonable grounds of danger to
13 the vessel to conduct a vessel to which he
14 has been assigned to or from any place
15 within the district when requested to do
16 so by the master of the vessel."

17 The second suggestion reads as follows:

18 "If the master insists on going to
19 Chicoutimi the pilot shall have him sign
20 before a witness a waiver freeing the pilot
21 from liability in the case of accident.
22 However, the pilot must advise the master
23 to the best of his knowledge."

24 Lastly, "If the master refuses to give a waiver the
25 pilot could ask to be relieved and immediately on
26 disembarking from the vessel report to the supervisor
27 in Quebec. The following pilot in turn must follow
28 the same procedure."

29 The waiver which is mentioned here
30 is nowhere mentioned in any of the bylaws; is that



1 correct?

2 A. Oh, this is correct.

3 Q. This is not a procedure which was
4 set up by the department?

5 A. No, no.

6 Q. Were you at the time informed that the
7 pilot would request a waiver?

8 A. Well, in effect, the verbal warning
9 to the master and his agreeing that if he did this
10 the pilot was not going to take responsibility for it
11 was in essence this. But I do not think that they
12 ever suggested they get a signed document.

13 Q. Were you aware that the pilots were
14 suggesting obtaining a signed waiver from the master
15 in that particular case?

16 A. As far as I know, no. I do not
17 think that we had a copy of this document on our files.

18 Q. So do I take it, then, that you were
19 not aware that the pilots were requesting a waiver?

20 A. In writing?

21 Q. Yes, in writing, of course?

22 A. I am not sure; I do not know.

23 Q. You do not know?

24 A. No.

25 MR. LALONDE: I think in Quebec
26 the local supervisor was aware of this situation at
27 the time. Secondly, my friend is attaching maybe too
28 much importance to the word "waiver" in this case.
29 What it means is that it is a way of having some
30 evidence that the advice was given. This is one of



1 the problems which pilots meet when an accident has
2 occurred sometimes -- to have evidence of what he said
3 or what he did suggest or recommend. Sometimes after
4 an accident people will not remember what the pilot
5 said, or they will say that they did not understand
6 what the pilot meant. That is the real meaning of
7 this "waiver" here.

8 THE CHAIRMAN: I do not know; this
9 raises the question of authority. I do not know to
10 what extent they could request a waiver. The only
11 other way would be to ask maybe the client to sign or
12 to have witnesses and to make a remark before those
13 witnesses so that it could be proven later on.

14 MR. LALONDE: I myself have some
15 doubts as to the effect or validity of such a waiver
16 as to the release of liability. It is quite obvious
17 that if the pilot gives wrong advice later on there
18 would be no release of responsibility because of this,
19 to be sure. It is more or less having some evidence
20 that the advice against the principle or the idea of
21 going to such-and-such a place on such-and-such a
22 ship; but what happens after that, well, the ordinary
23 rule should apply.

24 MR. JACQUES: That is the whole
25 problem, to find out whether a waiver may be legally
26 obtained by the pilot.

27 -

28 -



1 THE CHAIRMAN: So this is a legal
2 question.

3 MR. JACQUES:

4 Q. Your department here in Ottawa is
5 not aware of the procedure at all, of the request for
6 waiver for that particular ship?

7 A. In writing?

8 Q. In writing.

9 A. As far as I know, no, but as the
10 circular says it is made following an exchange of
11 views or correspondence with the department and with
12 the agents, and I think we would have made the pilots
13 aware of our view in this. We have expressed it more
14 than once that they cannot refuse to take a ship unless
15 they definitely know they could go over a bank ---

16 Q. But that is not the problem. I
17 realize that, but your Quebec office was aware of the
18 problem because there is correspondence exchanged with
19 the regional supervisor, but in Ottawa you were not
20 contacted at that time with respect to the waiver?

21 A. As far as I know, no. We would
22 have to search. We would not have attached too great
23 an importance to it.

24 Q. To that request?

25 A. No.

26 Q. Or to that statement?

27 A. We had suggested that the pilot
28 should make sure that if he did not feel he was safe
29 he should make the master aware of the fact and should
30 warn him he was not going to take the responsibility.



1 Q. Are you speaking at large or with
2 particular reference to the CANUK TRADER?

3 A. At large. It might have come up
4 with particular reference to this vessel.

5 Q. Since then has this matter of securing
6 a waiver from the master been discussed by the Authority
7 in Ottawa? Has the problem been discussed?

8 A. No.

9 Q. It has not? Now, again with
10 reference to the CANUK TRADER can you tell us what the
11 Authority understands by the words "reasonable grounds
12 of danger to the ship"?

13 A. Well, as I said just now, if the
14 master wanted the pilot or wanted the ship to be placed
15 in a certain berth and the pilot knew that there was
16 not enough water for that ship, he obviously would
17 refuse to carry on.

18 Q. But who has the authority to decide
19 whether there is reasonable grounds of danger to the
20 ship?

21 A. At the moment? At the time it
22 would be the pilot.

23 Q. He would be the sole judge?

24 A. Absolutely. Now, his judgment in
25 the matter might be called in question later, but at
26 the moment he is the only one who can say this.

27 Q. You know that some pilots are perhaps
28 a little more bold than others and will take ships at
29 times when other pilots will not take them?

30 A. This is as I said a day or so ago in



1 evidence. This is what makes this problem very
2 difficult, and certainly is not one we could possibly
3 solve from an armchair in Ottawa.

4 Q. From a ---

5 A. From a chair in Ottawa.

6 Q. So at the moment the Authority has
7 no means of establishing what a reasonable ground of
8 danger to the ship is?

9 A. No. In my opinion, no.

10 Q. You have not?

11 A. This would be a matter of opinion.

12 Q. From what you say it seems to be
13 something entirely relative to the pilot's opinion.
14 A particular pilot's opinion. It is not something
15 objective?

16 A. Exactly, and depending on so many
17 different factors, weather, tide, current, all sorts
18 of things.

19 Q. Has there ever been an occasion where
20 a pilot was fined because he refused to pilot a ship
21 because of reasonable ground of danger to the ship
22 and yet a finding to the effect that there was no
23 reasonable ground of danger?

24 A. Not in my recollection.

25 MR. LALONDE: The first question
26 should be whether there have been any incidents
27 reported where a pilot refused to take a ship on the
28 ground of alleged danger to the ship.

29 MR. JACQUES: I saved a question by
30 asking it in the same breath.



1 THE CHAIRMAN: We know quite a few
2 instances of that. Maybe not here. For instance,
3 Courtenay Bay, and it has happened in Quebec.

4 THE WITNESS: There have been cases.
5 I can't enumerate them now.

6 MR. JACQUES:

7 Q. Now again with respect to the
8 CANUK TRADER, on the 5th of October, 1961, your
9 regional superintendent in Montreal, then Captain
10 Gendron, received a letter from March Shipping Agency
11 Limited. This has been filed as part of Exhibit 603,
12 concerning the CANUK TRADER. They advised the Pilotage
13 Authority that the CANUK TRADER had been fixed for
14 loading a cargo of 2,500 tons of scrap at Chicoutimi
15 towards the end of this or early next week. So there
16 was a few days' notice. I quote now:

17 "In view of the special circumstances
18 of this call at Chicoutimi, we wonder whether
19 you could oblige us in permitting Captain
20 Leon Pouliot, a former special pilot of
21 ours and well familiar with the vessel,
22 to be seconded for special duty to pilot
23 the SS CANUK TRADER in and out of Chicou-
24 timi. We much appreciate that this may
25 constitute an exception to your established
26 procedure but feel the circumstances are
27 such as to warrant special consideration
28 in this one instance to be given to our
29 Canadian flag vessel."

30 What is the view of the Authority on such a request



1 when difficulties are pointed out, difficulties in
2 handling the ship, navigational difficulties are
3 pointed out to the Authority and it is also pointed
4 out to the Authority that a particular pilot has know-
5 ledge of that ship, and we know for a fact it has been
6 in evidence for all the district -- it has been
7 repeated over and over again -- that in a pilot's job
8 there are two factors: the factor of local knowledge
9 of currents, tides and what not, and there is also a
10 very important factor, knowledge of the ship which the
11 pilot gains through repeated pilotage of the same
12 ship or gains when he boards the ship.

13 Now, this letter states that there
14 are navigational difficulties or hazards due to the
15 size of the ship, and that a particular pilot might
16 be seconded for that job since he knew the ship.

17 MR. LALONDE: I am instructed, my
18 lord, the allegation about that particular pilot in
19 the letter is false. It is wrong. That particular
20 pilot had not been on the ship probably once for the
21 last four or five years.

22 MR. BRISSET: If I may interrupt ---

23 MR. LALONDE: No, you won't inter-
24 rupt. I will finish what I have to say. You have
25 plenty of time afterwards. That pilot had no more
26 experience with that particular ship than any other
27 pilot because they were sent on tour de role on
28 those ships for many years.

29 THE CHAIRMAN: Mr. Brisset?

30 MR. BRISSET: I must take issue with



1 one statement of my friend. The letter did not
2 state that Captain Leon Pouliot was familiar with
3 Chicoutimi. It states: "Captain Leon Pouliot, a
4 former special pilot of ours and well familiar with
5 the vessel, to be seconded for special duty to pilot
6 the SS CANUK TRADER." So it was only the familiar-
7 ity of that pilot with the vessel that was put before
8 the Authority, not that he had been to Chicoutimi.

9 MR. LALONDE: Thank you.

10 MR. JACQUES:

11 Q. What is the view of the Authority
12 when such requests are made?

13 A. In this particular case we would not
14 have supported the request at all if it was given to
15 us. I am not sure it was, but certainly we would not
16 have because this CANUK TRADER is just an ordinary
17 10,000-ton tramp. A tramp -- not in a derogatory
18 sense--an ordinary 10,000-ton freighter of which
19 there are hundreds of them, and there was nothing
20 peculiar about this ship, and certainly not sufficient
21 to justify a breaking of the special pilot rules. The
22 elimination of the special pilot rule.

23 Q. I believe she was not an ordinary
24 tramp. She was lengthened. She was an ordinary tramp?

25 A. I am told she was just an ordinary
26 10,000 toner.

27 Q. So you felt there was nothing special
28 about that particular ship; you feel there is nothing
29 special about it?

30 A. This particular ship?



1 Q. Is that correct?

2 A. Yes. We don't think there was any
3 special justification for having a special pilot.

4 THE CHAIRMAN: What you say there is
5 an expression of opinion which you are making now, and
6 that you never considered that case?

7 THE WITNESS: As far as I know. I
8 am not sure about this, my lord, but if it were asked
9 us now we would give this answer.

10 MR. JACQUES:

11 Q. Now, then, do you now consider that
12 the suggestions made by the pilots in their circular
13 were justified?

14 A. If they felt -- I am sorry, I was
15 just talking to Mr. Dussault about this this morning,
16 and he has outlined some of the problems there. I
17 can't talk about it otherwise than from what he told
18 me now, and I don't think this is much use. We
19 still hold the feeling if reputable pilots say a
20 certain manoeuvre is unsafe, then the master should
21 at least listen to him or do the job himself.

22 THE CHAIRMAN: Should we go further
23 and say the tour de role should not be interfered with
24 lightly, but could be interfered with in the case of
25 a very, very special case?

26 THE WITNESS: This is do, my lord.
27 As your lordship is aware it is done in B.C.

28 THE CHAIRMAN: That is right.

29 THE WITNESS: Where, if there is a
30 special ship, although they don't have any special



1 pilots, the pilots' committee get together and make
2 a decision on this as to whether or not there should
3 be a particular pilot assigned to the job.

4 THE CHAIRMAN: As is being done in
5 Saint John, New Brunswick, by the pilots themselves,
6 but they have told us they wouldn't like to be told to
7 do.

8 MR. BRISSET: Just as a general
9 question, assuming you have a ship that is called upon
10 to go into a certain place perhaps unusual for that
11 ship to go, and you have the tour de role pilot
12 stating that he does not consider it safe for the ship
13 to go there, and he does not feel able to take the risk
14 himself, while on the other hand you have another
15 pilot who considers that it is safe to do it, that he
16 can do it, as a matter of policy would you allow the
17 second pilot to take the assignment?

18 THE WITNESS: We would consider this.
19 We would discuss this with the pilots' committee,
20 and if this was not going to upset the applecart within
21 the district we would permit it, but certainly we would
22 not permit it if it would mean that there would be
23 further difficulty within the district.

24 MR. JACQUES:

25 Q. What sort of difficulties?

26 A. Quarrels among the pilots.

27 Q. So if the pilots are going to quarrel
28 among themselves the standard must be lowered to that
29 of the lowest available?

30 A. This is something you can't make a



1 blanket statement on. Certainly part of the function
2 of the Pilotage Authority is to try to make a smooth-
3 running pilotage district.

4 Q. Its primary function is to provide
5 the best advice to mariners plying our waters?

6 A. Right, and you can't do this if the
7 pilots are fighting among themselves.

8 MR. BRISSET: In other words, if
9 there is to be a quarrel between the pilots, it would
10 be preferable you feel to allow the pilot who feels
11 that it is unsafe to go ahead and do it with a waiver
12 than the one who says he can do it and doesn't see
13 that it is unsafe? This is perhaps putting it a
14 little bit too harshly.

15 THE WITNESS: Normally we would not
16 interfere with them.

17 MR. BRISSET: You would let the
18 first pilot who is on the tour de role go ahead ob-
19 taining the waiver?

20 THE WITNESS: Certainly the one on
21 the tour de role would be the one who would speak to
22 the master. Now, if the master made complaints on
23 this and raised the whole thing out into the open,
24 it would have to be considered again, a particular
25 case, on its merits.

26 THE CHAIRMAN: Any further discus-
27 sion? We will pass to the next one.

28 MR. JACQUES:

29 Q. Question 40 relates to the method of
30 filling source cards. There is conflicting evidence



1 on what pilots are to put in various times which are
2 listed on the source card. I should like to know
3 what is the latest instruction.

4 A. Quite definitely this column "ordered
5 time" was not to be the time at which the pilot was
6 telephoned but the time at which he was ordered to
7 be on board.

8 Q. I see.

9 A. This is set out in a notice to pilots
10 dated the 30th of July, 1963, signed by Mr. Melanson
11 as supervisor of the district.

12 Q. Is it applicable also in the Quebec
13 District?

14 A. Yes, all the districts.

15 Q. I notice it was already filed as
16 Exhibit 722, but subsequent evidence is to the effect
17 that instructions given by the pilots or the Corpora-
18 tion of Pilots contradicts the instructions given by
19 the department?

20 A. We know nothing of this.

21 Q. You know nothing of this?

22 A. No.

23 THE CHAIRMAN: In other words, the
24 time that is mentioned as "ordered time" is the time
25 from which detention is going to go?

26 THE WITNESS: Correct, my lord.

27 THE CHAIRMAN: And it is on that
28 that the one making the bill bases the bill on?

29 THE WITNESS: This is correct.

30 THE CHAIRMAN: So therefore the time



1 he is telephoned, you can't calculate at all the
2 detention from that? This information has to be on
3 the source form?

4 THE WITNESS: That is correct.

5 MR. LALONDE: There again, my lord,
6 isn't it a fact that detention time in some instances
7 -- I don't say in all districts, but in some instances
8 -- begins only when the pilot is on board the ship?
9 If you are ordered for, let us say, 16 hours in Quebec
10 or Les Escoumains and the ship arrives only at 20 hours,
11 you can't charge detention to the ship for the four
12 hours you waited up on the dock at Les Escoumains
13 before going on board ship. You will have to put 1600
14 hours as "ordered time" for this is the time the ship
15 has called you. You will have boarded at 20 hours
16 and the "ordered time" is of no use at all for deten-
17 tion purposes.

18 THE CHAIRMAN: It is not the same
19 in B.C. There it is ordered time, and the time the
20 pilot is waiting at the dock to board ship is deten-
21 tion.

22 I don't know as far as Quebec is
23 concerned. In British Columbia paragraph 6 of the
24 schedule says when a pilot is detained beyond one hour
25 by a vessel at any port or when outside pilotage waters
26 so it is at any port. If he is detained, he is
27 there, he is there to perform his duty, and he is
28 available, and if the ship does not depart, the de-
29 tention starts from that.

30 MR. LALONDE: The same rule does not



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir
(Jacques)

18137

1 apply in all districts on the St. Lawrence River.

2 MR. JACQUES: I am sure there
3 won't be any objection, but it appears in Quebec
4 District the way the form is filled now in the space
5 marked "ordered time" is the time at which the pilot is
6 to report on board. The time he is ordered for. He
7 is ordered for four o'clock for a ship, it is four
8 o'clock, and the time reported is the time at which
9 he in fact reports. He might report ten minutes
10 before four o'clock.

11 -

12 -

13 -

14 -

15 -

16 -



1 THE WITNESS: This is what is
2 stated on those Notices to Pilots.

3 MR. LALONDE: Captain Slocombe, I
4 understand that some instructions have been posted on
5 the board of the pilotage station at Quebec containing
6 the way of filling in this particular card. Could you
7 please get a copy of these instructions?

8 THE WITNESS: Other than this?

9 MR. LALONDE: I understand they
10 have been posted this spring.

11 THE WITNESS: Something later than
12 that?

13 MR. LALONDE: I understand it is
14 a similar but much shorter notice in Quebec City.
15 This is part of the exhibits now?

16 THE WITNESS: Yes, it is. In any
17 case, my lord, we will check and if there is still any
18 misunderstanding on this it will be cleared up. We
19 thought that it had been cleared up.

20 MR. JACQUES: This ends my series of
21 questions for the Quebec District, my lord.

22 MR. BRISSET: We have now been told
23 about time reported and time ordered. Where does the
24 detention time start? Is it when the pilot is on
25 board only?

26 THE WITNESS: Yes, it is. Yes,
27 this is so.

28 THE CHAIRMAN: It is Section 3(1)
29 of the Appendix A.

30 THE WITNESS: Thank you, my lord.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

CROSS-EXAMINATION BY MR. LALONDE:

Q. Detention time starts only after the first hour has been expired? They cannot charge the first hour as detention?

THE CHAIRMAN: In British Columbia it is not so. There is no detention for the first hour. If it goes over one hour, one hour and one minute, it is two hours but fifty-five minutes is nothing.

MR. LALONDE:

Q. I understand in Quebec they are not that lucky. If it is an hour and five minutes it is one hour. Is it a fact that the first hour is not provided for in the bylaws?

A. This is correct. It is for each additional hour over one hour.

Q. I would like you to go back over certain questions on which I did not ask the questions at the beginning because I did not know we were proceeding question by question. Are you in a position to answer about the exhibits which have been filed at the beginning of your questioning, Exhibits 1296 to 1314? I have the list of exhibits which were filed right at the start.

A. What were they, Mr. Lalonde?

Q. They were generally statistics about earnings, workload, number of affected pilots ---

THE CHAIRMAN: These were not filed by the department; they were filed by us because we



1 had been provided with them. They were copies of what
2 had been sent about a year and a half ago and some of
3 it had been brought up to date.

4 MR. LALONDE:

5 Q. Are you in a position to explain these
6 documents and when they were prepared and what they
7 contained?

8 A. With your lordship's permission I
9 would like Captain Jones to give evidence on this.

10 THE CHAIRMAN: That is right. He
11 may be obliged to look them up first because we were
12 not informed this question would be coming up. Would
13 you take a note on that, Captain Jones, and prepare
14 yourself on that?

15 CAPTAIN JONES: Yes, very good, sir.

16 MR. LALONDE:

17 Q. In your evidence you stated at the
18 beginning that these statistics compiled by the Depart-
19 ment of Transport took into account the time spent by
20 pilots on board ship. Do you remember that when
21 you were referring to the workload of pilots you
22 referred to the amount of time they spent aboard ship?

23 A. Yes, that is correct.

24 Q. Is it not a fact it is not time
25 aboard ship but actual steaming time?

26 A. Well, in the St. Lawrence is this
27 not usually the same? Are you thinking of anchoring
28 time?

29 Q. No. I am thinking you might very
30 well board a ship, for instance, in Montreal Harbour



1 at ten o'clock in the morning and steam at two o'clock
2 in the afternoon or one o'clock or twelve because the
3 ship is somehow delayed at the last minute in her
4 departure. Is it a fact you are calculating the
5 steaming time instead of the time spent by the pilot
6 aboard ship, as you stated in your evidence before?
7 What were you referring to when you gave evidence?
8 I am not asking Captain Jones what he understands to
9 be the situation.

10 A. I said it was time noted on the cards
11 or the source form as being on board the ship. This
12 would be from the time he is on board the ship.

13 Q. Reported time?

14 A. Yes, reported time.

15 THE CHAIRMAN: If the reported time
16 is later than the ordered time it would mean the ship
17 had been delayed by the pilot.

18 MR. JACQUES: I wish since Captain
19 Jones seems to be familiar with the matter he could
20 give evidence on that.

21 THE WITNESS: Captain Jones is much
22 more familiar with this data than I am.

23 MR. LALONDE: I am willing to post-
24 pone my questions on this matter unless Captain Jones
25 wants to give an answer now. I think it will open the
26 whole matter of statistics.

27 THE CHAIRMAN: We will wait. He will
28 be able to prepare himself on that.

29 MR. LALONDE:

30 Q. We might conclude the evidence he



1 has given on this matter. You are not too sure of
2 what it refers to exactly?

3 A. No, I was speaking in general terms.

4 Q. Now, at the beginning of the questions
5 there was a reference to the increase in the number of
6 pilots in the Quebec District. You said two new pilots
7 were added and said they must have convinced the
8 Pilotage Authority that the pilots were required and
9 you added, I think, that the Pilotage Authority must
10 have yielded to pressure probably. What were you
11 referring to?

12 A. I am referring to Exhibit 705.

13 Q. Filed by Captain Dussault and in
14 particular to a letter dated June 1963 sent by the
15 Minister, Mr. George J. McIlraith to Captain Rousseau.
16 The letter is in French and it raises several in-
17 stances of unexplained absences from duty; what he
18 calls unexplained absences from duty.

19 Now if I may draw your attention to
20 some of these instances, if you look, for instance,
21 at the case of Mr. Morissette it stated he had been
22 absent 116 days in 1962 and no satisfactory explanation
23 had been given to motivating his absence. Now this
24 is a letter from the Authority.

25 The answer is dated July 12, 1963,
26 from Captain Rosseau and states that Mr. Morissette
27 had produced at the request of the local supervisor
28 of pilots medical certificates to justify his absence
29 and that these certificates were obtained from the
30 physicians of the Department of Health and Welfare and



1 his own doctor.

2 Now can you explain to me how the
3 Pilotage Authority could send a letter saying Mr.
4 Morisette had given no satisfactory explanation of
5 his absences while at the same time the departmental
6 files have contained these medical certificates that
7 I refer to?

8 A. I cannot answer this question.

9 Q. Now if we go to the next one, to
10 Mr. J. Boehu, it is stated he has been absent for 120
11 days in 1962 and no satisfactory explanation has been
12 given to motivating this absence, and Captain Rosseau
13 in his answer advises he was suspended from his
14 functions indefinitely. Do you know any reason why
15 the Pilotage Authority would have no satisfactory
16 explanation for the absence?

17 A. It must be prior to the suspension.

18 Q. Have you checked this matter?

19 A. I haven't, no. You are springing
20 these questions on me now. It is something I am not
21 prepared to answer.

22 THE CHAIRMAN: Should you wish to
23 have an answer ---

24 MR. LALONDE: I know where to look
25 for it.

26 THE CHAIRMAN: Captain Jones will
27 check on that.

28 MR. LALONDE:

29 Q. Do I understand in effect that you
30 are not in a position to answer on this?



1 A. No, I cannot answer on those questions
2 on what the statements were based, no.

3 Q. Captain Jones would be the person to
4 answer that?

5 A. We can look it up in the file.
6 Captain Jones can answer that when he gets in the box.

7 THE CHAIRMAN: We will adjourn now
8 until two-thirty. I don't know whether Captain Jones
9 will be able to prepare his answers on all these ques-
10 tions by this afternoon. If not, he may take the
11 necessary time, of course, because we want to have the
12 right answers.

13 MR. LALONDE: I am quite willing to
14 delay Captain Jones until the end.

15 THE CHAIRMAN: If he could give
16 these answers as soon as possible it would be preferable.

17 MR. JACQUES: Mr. Cumyn will be on
18 the stand at two-thirty.

19 THE CHAIRMAN: For the two questions
20 set aside for him?

21 MR. JACQUES: Yes, or other ques-
22 tions. I don't know what is going to happen.

23
24 ---Luncheon adjournment.
25
26
27
28
29
30



1 ---UPON RESUMING AT 2:30 P.M.

2 COMMISSIONER SMITH: His Lordship is delayed.
3 Will you please continue?

4 MR. JACQUES: Mr. Commissioners, I should
5 like at this stage, since I have finished my series of
6 questions on Quebec Escoumains, to file two briefs
7 addressed to the Commission by individual pilots of
8 the Quebec District. The first one is dated March 12,
9 1964 and is signed by 21 pilots. Counsel for the
10 Federation has already been supplied with a copy of
11 that brief some time ago.

12 MR. LALONDE: Never in my life.

13 MR. JACQUES: Or Mr. Bedard has had a copy.

14 MR. LALONDE: No, I have never had it. March
15 what?

16 MR. JACQUES: March 12, 1964.

17 THE SECRETARY: This will be given Exhibit
18 number 1322.

19 ---EXHIBIT NO. 1322: Brief presented to the Commission
20 by 21 pilots of the District of
Quebec on March 12, 1964.

21 MR. JACQUES: As Exhibit 1323 I present a
22 second brief addressed to the Commission by Pilot Lucien
23 Bedard dated the 15th August, 1964. Counsel for the
24 Federation has not as yet been supplied with a copy of
25 this brief, but we have copies available.

26 ---EXHIBIT NO. 1323: Brief presented to the Commission
27 by Pilot Lucien Bedard dated 15th
August, 1964.

28 MR. JACQUES: Most of the facts -- I should
29 say all the important facts alleged in these briefs are
30 already in evidence and they do not require any further



1 evidence. However, since they refer to what I would
2 call the history of pilotage we should like to file the
3 reports of previous royal commissions and commissions
4 of inquiry into pilotage.

5 COMMISSIONER SMITH: In a bundle?

6 MR. JACQUES: No, Mr. Commissioner, separately,
7 because they do not deal with pilotage across Canada.
8 They deal with individual Districts. The first one
9 is a report on an investigation into pilotage in Saint
10 Johns, New Brunswick dated 1895 as Exhibit No. 1324.
11 The second one is the report of a Royal Commission of
12 the Districts of Montreal and Quebec dated 1913,
13 together with a booklet entitled "Answer of the
14 Corporation of Pilots to the Report of the Royal
15 Commission", as Exhibit 1325. The third one is a
16 report of a Royal Commission on Pilotage at the Port
17 of Halifax dated 1918, as Exhibit 1326. There is
18 also a report of a Royal Commission on conditions in
19 the Pilotage Districts of Vancouver, Victoria, Nanaimo
20 and New Westminster in 1919, as Exhibit 1327.

21 Next is a report of a Royal Commission
22 on the Pilotage Districts of Miramichi, Sydney,
23 Louisbourg, Halifax, St. Johns, Montreal and Quebec
24 dated 1919, as Exhibit 1328. Then a report of a Royal
25 Commission into Pilotage in British Columbia Waters
26 dated 1929, as Exhibit 1329. Lastly, a report on
27 pilotage matters made to the Minister of Transport by
28 a Committee appointed by Order-In-Council dated November,
29 1949, as Exhibit 1330.
30



- 1 ---EXHIBIT NO. 1324: Report on pilotage in Saint John,
New Brunswick dated 1895.
- 2
- 3 ---EXHIBIT NO. 1325: Report of Royal Commission on
Montreal and Quebec Districts dated
4 1913, together with booklet entitled
"Answer of the Corporation of
5 Pilots to the report of the Royal
Commission".
- 6 ---EXHIBIT NO. 1326: Report of Royal Commission on
Pilotage at the Port of Halifax
7 dated 1918.
- 8 ---EXHIBIT NO. 1327: Report of Royal Commission on
Pilotage Districts of Vancouver,
9 Victoria, Nanaimo and New
Westminster, dated 1919.
- 10 ---EXHIBIT NO. 1328: Report of Royal Commission on
Pilotage Districts of Miramichi,
11 Sydney, Louisbourg, Halifax,
12 St. Johns, Montreal and Quebec,
dated 1919.
- 13 ---EXHIBIT NO. 1329: Report of Royal Commission into
Pilotage in British Columbia
14 Waters, dated 1929.
- 15 ---EXHIBIT NO. 1330: Report on pilotage matters to the
16 Minister of Transport dated
November, 1949.

17 COMMISSIONER SMITH: Mr. Jacques, I did not
18 get that date of the Miramichi, Sydney, Halifax, St.
19 Johns ---

20 MR. JACQUES: It is, sir, 1919.

21 COMMISSIONER SMITH: There are two in 1919?

22 MR. JACQUES: Yes, there is one into
23 Vancouver, Victoria, Nanaimo and New Westminster.

24 MR. LALONDE: Mr. Commissioners, in connection
25 with Exhibit 1322 which is petitioned by 21 Quebec
26 pilots, I am instructed that 5 pilots on that list have
27 signed a document to the effect that they disassociate
28 themselves from this petition to the effect that they
29 have misunderstood what they were called upon to sign.
30



1 I will produce these documents next week, next Monday,
2 when I can obtain them. They might be annexed to
3 Exhibit 1322 next week.

4 ---ADDITION TO EXHIBIT 1322: (To be produced). Declar-
5 ation by five Quebec pilots.

6 MR. LALONDE: I would also like to point out
7 that a sixth pilot has retired since. Captain G. E.
8 Koenig is now under suspension on this list.

9 COMMISSIONER SMITH: Very good.

10 MR. JACQUES: I would like to call Mr. Cumyn
11 now, please.

12 ALAN CUMYN, Sworn

13 DIRECT EXAMINATION BY MR. JACQUES:

14 Q. Would you state your full name,
15 please?

16 A. Alan Cumyn.

17 Q. And your occupation?

18 A. Civil servant.

19 Q. More precisely, what do you do in the
20 Civil Service?

21 A. I am Director of the Marine Regulations
22 Branch of the Department of Transport.

23 Q. Would pilotage come under you?

24 A. Yes, sir.

25 Q. It does. And what are your qualifi-
26 cations?

27 A. In respect of pilotage?

28 Q. In general.

29 A. Well, sir....

30 Q. Do you hold a certificate as Master?



- 1 A. No, sir.
- 2 Q. Do you hold an engineer's certificate?
- 3 A. Yes, sir.
- 4 Q. Would you tell us what class it is?
- 5 A. It is an extra first-class certificate,
- 6 steam and diesel.
- 7 Q. Granted where and when?
- 8 A. Granted by the Ministry of Transport,
- 9 London, England, in 1928.
- 10 Q. Apart from that do you hold any
- 11 other certificate, degree or diploma?
- 12 A. No, sir.
- 13 Q. How long have you been in your
- 14 present position?
- 15 A. Since 1958, sir.
- 16 Q. Prior to that what position did you
- 17 occupy?
- 18 A. I was Chairman of the Board of
- 19 Steamship Inspection.
- 20 Q. And as Chairman of the Board
- 21 of Steamship Inspectors, did you have anything to do
- 22 with pilotage?
- 23 A. No, sir.
- 24 Q. So it may be fairly stated that
- 25 your connection with pilotage dates back to 1958 only?
- 26 A. Yes, sir.
- 27 Q. What are your duties in connection
- 28 with pilotage matters?
- 29 A. I would say that I am concerned at
- 30 my level with the administration of pilotage, but not



1 with the day to day work of pilotage -- not with the
2 day to day administration, the general administration,
3 I would say.

4 Q. Would that include policy making
5 with respect to administration?

6 A. I have some say in policy making.

7 Q. How far does your say go in policy
8 making?

9 A. Up to the level of the Deputy
10 Minister.

11 Q. Would that be confined strictly
12 to administration?

13 A. Yes, sir.

14 Q. Strictly with administration. Now,
15 sir, a question was directed yesterday to Captain
16 Slocombe and he referred us to you for an answer.
17 The question is number 32 ---

18 CAPTAIN SLOCOMBE: My Lord, excuse me, I
19 did not refer Mr. Cumyn for an answer. I said I could
20 not answer that and counsel said: "We will have to
21 ask Mr. Cumyn."

22 MR. JACQUES: Thank you.

23 Q. It is question number 32 of the
24 series of questions filed with the Department of Trans-
25 port and it reads as follows: "What about the alleged
26 plan to grant exemptions to vessels instead of increasing
27 the number of pilots?" and the reference is volume 67,
28 page 8173. I might read part of the evidence in order
29 to situate the question.

30 "There was a problem I forgot



Cumyn, dir
(Jacques)

18151

1 to mention a few minutes ago
2 that we asked. I think we
3 were only 75 pilots at the time
4 and a suggestion had been made
5 to us that the number should be
6 kept pegged at 75 and that this
7 in fact would be the saturation
8 point and even if we needed to
9 increase the number of pilots
10 afterwards, instead of increas-
11 ing the number of pilots, we
12 would begin to have exemptions
13 granted to some vessels, but
14 they never said which type of
15 vessels. This was one of the
16 main problems in 1960."

17 Further on we note from the evidence of
18 Captain Rousseau that this matter was raised during a
19 meeting where you and Captain Gendron attended in the
20 spring of 1960.

21 Would you tell us first whether you or
22 any other officer of your Department present at the
23 meetings held in the spring of 1960 made that statement,
24 or a statement to that effect?

25 A. Well, sir, may I explain? Do I have
26 to answer directly or may I explain?

27 ---The Chairman entered.

28 Q. No, you can explain it.

29 A. I should explain, sir, that the
30 Dominion Marine Association at that time was pressing the



1 Department for exemption in some measure from payment
2 of compulsory pilotage dues in the Quebec District.
3 We were wondering if anything could be done about this
4 and in my discussions with the pilots I threw out the
5 idea to them, simply as an idea, not as a plan -- and
6 this came entirely from me, sir -- that we might
7 achieve this aim by granting some measure of relief from
8 compulsory payment of pilotage dues on the part of
9 Canadian lake vessels, that this might mean a reduction
10 in pilotage work and that in order to maintain the
11 level of individual pilotage income we might refrain
12 from filling pilotage positions which became empty,
13 shall I say, through natural causes. That is all, sir.

14 Q. Could you not in any case under
15 the law as it then was grant exemptions to Canadian
16 lake vessels?

17 A. I do not understand your question,
18 sir.

19 Q. Well, there was no need to come to
20 an agreement with the pilots in order to grant exemptions
21 to lake vessels?

22 A. Not at all, sir. It would have
23 meant a change in the by-laws and I have always followed
24 a policy of discussing with the pilots any ideas that
25 we might have with respect to amendments to the by-laws.
26 I repeat, sir, this was only a suggestion, not a plan.

27 Q. I realize that it was only a
28 suggestion, Mr. Cumyn, and your suggestion not to
29 increase the number of pilots was merely to secure
30 adequate remuneration for the pilots then in function?



1 A. To maintain their level of
2 remuneration.

3 THE CHAIRMAN: And to correct the work load?

4 THE WITNESS: Yes, sir.

5 MR. JACQUES: Q. Am I right in saying that
6 the proposed exemptions would not have been granted at
7 one blow but rather spread over a period of years,
8 because I fail to see frankly how the maintaining of
9 the pilot force at a given number would secure for
10 them the same remuneration that they had before, if
11 you granted exemptions?

12 A. Well, sir ---

13 Q. It would mean less revenue.

14 A. Pardon?

15 Q. It would mean less revenue in the
16 District, therefore the pilots would have made less
17 money?

18 A. Well, sir, the idea was that we would
19 grant exemption in partial measure, that this would
20 encourage the lake ships to do without pilots and that
21 this would result in a reduction in the pilotage work
22 load.

23 Q. Indeed?

24 A. That we would balance the exemption
25 against the number of pilots on the force and that when
26 the number of pilots on the force was reduced due to
27 natural causes we could then increase the measure of
28 exemption, because we would have less pilots and less
29 work. But the governing factor was to maintain the level
30 of income of the pilots.



1 Q. Level of income of pilots?

2 A. Of the individual pilots, to reduce
3 the total income, but also to reduce the total number
4 of pilots as the work load decreased.

5 MR. JACQUES: Thank you.

6 -----

7 CROSS-EXAMINATION BY MR. LALONDE:

8 Q. Mr. Cumyn, you referred to exemptions
9 to Canadian lake vessels. At that time you were aware,
10 were you not, of representations by External Affairs
11 to the effect that exemptions could not be granted
12 only to Canadian lake vessels, but these exemptions
13 should eventually be extended to American lake vessels
14 also?

15 A. I don't understand your question,
16 sir.

17 Q. Well, I will put it another way.
18 Wasn't one of the purposes of Bill S-3 to provide for
19 the possibility of exemptions on the basis of the
20 qualifications of the Masters rather than the type of
21 vessel itself? Was it not forecast that such exemptions
22 would be granted to Canadian as well as to American
23 Masters of lake vessels if they were to meet certain
24 requirements which had not been defined yet at the
25 time?

26 A. This may have been discussed, sir,
27 but I couldn't say there was any definite intention in
28 this respect. If I may add, sir, in case you are
29 referring to the discussion I have just held with Mr.
30 Jacques, in my approach to these exemptions to Canadian



1 lake vessels, and discussing this with the Quebec
2 pilots, I had no thought at all of exemptions for
3 American ships. This was not considered at all.

4 Q. It was not considered by yourself?

5 A. No, sir.

6 Q. You mean to say during discussions
7 about Bill S-3 there was never any suggestion or
8 possibility considered of extending exemptions to
9 American lake vessels?

10 A. There may have been discussions, but
11 there were no definite decisions taken or planned.

12 Q. But wasn't one of the objects of
13 Bill S-3 at the time to provide for such a possibility?

14 A. I don't think so.

15 Q. You don't think so? What was the
16 main object of the provision of Bill S-3 which, you
17 remember, amended substantially Section 346?

18 A. I think, sir, before I answer that
19 question I would like to be given a chance to study
20 Bill S-3.

21 Q. Clause 9, the explanation of that
22 clause, if you read it, says the granting of exemption
23 from compulsory payment of pilotage dues to British
24 ships only is discriminatory against ships of other
25 countries, and in many cases is in violation of long-
26 standing treaties with other nations.

27 The purpose of this amendment is to
28 eliminate such discrimination and to provide for the
29 continuance in Pilotage Districts in the Province of
30 Newfoundland, etc. etc. -- this is no concern to us.



1 Do you remember having discussions
2 at that time which would have borne on that particular
3 subject of extending exemptions to American lake vessels?

4 A. No, sir. My memory of those
5 particular discussions is not good enough to enable me
6 to answer that line of questions.

7 Q. Now I presume, Mr. Cumyn, you had
8 an opportunity of reading the brief submitted to this
9 Commission by the Federation of St. Lawrence River
10 Pilots?

11 A. I may have glanced over it, sir.
12 I haven't studied it.

13 Q. Have you read Chapter 8 concerning
14 the Department of Transport as Pilotage Authority?

15 A. I can't say right offhand that I
16 have.

17 Q. If I show it to you, will you
18 remember if you have read it or not?

19 A. Possibly.

20 Q. May I have a copy of Exhibit 671
21 in English? This is Chapter 8 of the brief. Will you
22 just peruse it very rapidly and tell me whether you
23 remember having read that Chapter?

24 A. No, sir.

25 Q. You don't remember having read it?

26 A. No, sir. I wonder, sir, if I may
27 go back to this Bill S-3 for a minute?

28 THE CHAIRMAN: Right.

29 THE WITNESS: I would like to point out, sir,
30 this Bill S-3 is dated the 20th January, 1959, and that



1 I came into pilotage in July, 1958, and it is rather
2 too much to expect me to engage in answering questions
3 referring to a bill that was probably discussed and
4 brought into form before I came into pilotage, having
5 in mind the fact that pilotage was completely new to
6 me.

7 THE CHAIRMAN: Yes.

8 MR. LALONDE: Q. Now, since you have
9 referred to the time you came into pilotage matters
10 in 1958, would you mind telling the Commission what
11 atmosphere you felt in the Department with regard to
12 pilots? What attitude of mind did you find when you
13 came into pilotage?

14 MR. MacGILLIVRAY: My Lord, I had understood
15 that it was rather well agreed early in the proceedings
16 that it is difficult that one witness from the
17 Department was expected to come and answer the questions
18 much in the manner of an examination for discovery,
19 having briefed himself from the files and from other
20 sources, answering from his personal knowledge if he
21 could. Captain Solcombe was selected for this purpose.

22 This morning when he was unable to
23 answer a couple of questions, or yesterday it was, I
24 suppose, the suggestion was made that Mr. Cumyn should
25 come and answer them. I thought this was the purpose of
26 Mr. Cumyn's coming. I wonder what contribution to the
27 work of this Commission is likely to come out of an
28 answer to this last question.

29 THE CHAIRMAN: Mr. Cumyn was coming here for
30 a few definite questions.



1 MR. LALONDE: Yes, My Lord. I don't know
2 whether it is a wink from Captain Slocombe which
3 prompted my friend to raise this matter.

4 CAPTAIN SLOCOMBE: I think it would have
5 been entirely justified. Counsel is trying to trap
6 the witness on questions that were asked when he was
7 not here. Mr. Cumyn should have a chance, if he is
8 going to be questioned, to know what is going on.

9 MR. LALONDE: My question has nothing to
10 do with anything that Captain Slocombe said in the box
11 in the last few days. I understand you have counsel
12 to represent you.

13 Secondly, I think it is entirely
14 relevant that this Commission, in view of the diffi-
15 culties which seem to have been encountered in pilotage
16 in various places in Canada, to know what is the
17 background of this. If this Commission is going to have
18 from the Department of Transport as its only basis
19 of information what one gentleman will have found from
20 consulting files or perusing the files, I respectfully
21 submit that this Commission will have its work consider-
22 ably limited, and will find itself pretty well handcuffed
23 as to what functions have been fulfilled by the
24 Department of Transport in connection with pilotage
25 during the last few years.

26 THE CHAIRMAN: That is why we have asked
27 some other witnesses to come, and now Mr. Cumyn is
28 here.

29 MR. LALONDE: I submit that the question I
30 last pur to Mr. Cumyn arose out of an answer which he



1 gave himself when he referred to the time he arrived at
2 the Department, and didn't know much about pilotage at
3 that time.

4 THE WITNESS: Nothing.

5 MR. LALONDE: And it is entirely relevant
6 in that period of 1958 to 1962 which this Commission
7 has studied, which gave rise to many difficulties.
8 I think it is entirely relevant to find out how
9 pilotage and pilots generally were viewed by officials
10 of the Department.

11 I am not asking for any names here,
12 but I want to know how pilotage was conceived in that
13 Department, and this you can't find by only asking a
14 question out of a file, whether a letter was written
15 on such and such a date or whether --

16 THE CHAIRMAN: You have to qualify it. It
17 was too general a statement, what you asked. You will
18 have to qualify that.

19 MR. LALONDE: Thank you, My Lord.

20 Q. Isn't it a fact that you attended
21 meetings when you arrived at the Department of Transport
22 where very abusive language was used towards pilots
23 during the meetings?

24 A. Who by?

25 Q. Well, I am asking the question
26 whether at meetings you attended of departmental
27 officials very abusive language was used?

28 A. No, sir.

29 Q. Do you ever remember a meeting where
30 pilots were referred to as rats?



1 A. I do not.

2 Q. Do you ever remember having had a
3 discussion with me aboard a train between Montreal and
4 Ottawa in which you yourself described the atmosphere
5 which was prevailing when you arrived at the Department
6 of Transport in 1958?

7 A. In which I described the atmosphere?

8 Q. Yes.

9 A. Yes.

10 Q. Do you remember having told me there
11 was a very antagonistic attitude by departmental
12 officials towards the pilots?

13 A. No, sir.

14 Q. Having been in Montreal with Mr.
15 Booth at the office of Mr. Gerin Lajoie some time in
16 1960 or 1959?

17 A. Yes, sir.

18 Q. Will you explain to the Commission
19 what was the purpose of that trip?

20 A. As I remember it, sir, it was in
21 order that Mr. Booth might express to the representatives
22 of the pilots and Mr. Gerin Lajoie the Department's
23 worry at the intention of the pilots to organize
24 themselves into a Corporation.

25 Q. What prompted this representation?

26 A. That I couldn't tell you, sir. Mr.
27 Booth was directed to go there by the Pilotage Authority.

28 Q. I see. You were directed by Mr.
29 Booth to accompany him?

30 A. Naturally.



1 Q. Right?

2 A. I would say so, yes.

3 Q. You were telling me you have no
4 idea as Director of Marine Regulations what prompted
5 this decision to make representations about the
6 proposed setting up of the Pilots' Corporation?

7 A. I have told you, sir, that the
8 Department viewed with some concern the setting up
9 of this Corporation.

10 Q. What was the result of this
11 representation?

12 A. This particular meeting, sir?

13 Q. Yes.

14 A. Well, as I remember it Mr. Booth
15 expressed his views, and Mr. Gerin Lajoie expressed
16 his views, and no decisions were taken.

17 Q. Isn't it a fact that these
18 representations were made by departmental officials
19 upon representations of the Shipping Federation of
20 Canada?

21 A. Well, sir, these representations
22 were made by the Department. The decision to make
23 them was made at a level above mine, and therefore
24 I am unable to tell you how they were come by.

25 Q. Now, since we have referred to Mr.
26 Booth, do you remember having heard Mr. Booth use
27 very abusive language towards pilots during the meetings?

28 A. No, sir.

29 THE CHAIRMAN: Oh, I think this would be
30 very natural at times perhaps. I know that in my office



1 sometimes I do.

2 Q. Did you have meetings with your
3 predecessor? You attended meetings with your predecessor
4 as Director of Marine Regulations?

5 A. Not that I remember, sir.

6 Q. Who was your predecessor?

7 A. Norman Wilson.

8 MR. MacGILLIVRAY: I think Mr. Cumyn might
9 wish to correct that statement. You were the first
10 incumbent of the position.

11 THE WITNESS: I always thought Mr. Wilson,
12 Director of Marine Services, was responsible for
13 pilotage in some measure.

14 MR. MacGILLIVRAY: I think perhaps the
15 witness would like to say that he really had no
16 predecessor in his position. Director of Marine
17 Services was elevated to Director General in Marine
18 Services, and several Directors were placed into
19 various positions, Mr. Cumyn being the first in his
20 position.

21 Q. Now, Mr. Cumyn, you said that your
22 function was, on one hand, confined strictly with
23 administration, and on the other hand you had some
24 say in policy making. I would like you to express what
25 are your exact functions in connection with policy. That
26 is, what comes up as far as you, and what is decided at
27 the level of Captain Slocombe, who, I think, is your
28 immediate subordinate; is that correct?

29 A. Well, sir, I would say that generally
30 speaking Captain Slocombe deals with matters himself that



1 he feels come within his jurisdiction. Anything that
2 he thinks that I should see or a letter that he
3 thinks I should sign or anything that should go to
4 the Assistant Deputy Minister or the Deputy Minister
5 is passed up through my desk. Some of them stop at
6 my desk and are dealt with there. Others pass on to
7 the higher levels.

8 Q. Are there some specific rules
9 or general rules?

10 A. No, it is a matter of judgment.

11 Q. If I understand you right it is
12 a matter of judgment on the part of Captain Slocombe
13 on what he is going to decide on without referring
14 to you and it is a matter of judgment by you what you
15 are going to send up?

16 A. Exactly.

17 Q. There is never any clear-cut
18 division between what one can decide on his own and
19 what can go up?

20 A. No, sir.

21 Q. It is up to the individual what
22 should be decided at his level. I think you did
23 participate at a certain number of joint meetings with
24 the ship owners and pilots during the wintertime?

25 A. Yes, sir.

26 Q. These were obviously in your
27 position as Director of Marine Regulations. It was
28 felt by everybody that it was a decision at your level
29 and this is not the type of thing that should be
30 decided at the level of Captain Slocombe. Is that the



1 way it is arranged? I want to know how it worked?

2 A. If I felt I should attend a meeting
3 of the pilots I would clear the matter with my
4 superior.

5 MR. LALONDE: My Lord, I have a couple of
6 further points that I would like to check on. I cannot
7 ask the questions now. I will submit them later on if
8 you wish.

9 MR. JACQUES: I have my second question to
10 ask anyway.

11 -----
12 DIRECT EXAMINATION BY MR. JACQUES:

13 Q. The second question arises again
14 out of the evidence given by Pilot Rousseau in Quebec
15 City. It is reported in volume 67, page 8178:

16 "There was also another
17 problem, if my memory serves
18 me right, the problem of
19 letting foreigners or American
20 pilots perform work up to the
21 District of Cornwall to
22 Montreal, and if I remember
23 correctly, at those meetings
24 we had protested, that is all
25 the pilots present had protest-
26 ed against the fact that
27 American pilots would perform
28 their duty up to Montreal.
29 Then we were told that in a
30 few years time the same pilots



1 who would go up to Montreal
2 would be authorized to go to
3 Father Point."

4 Would you have any recollection of that?

5 A. Do I understand correctly, sir, he
6 is talking about pilotage between Quebec and Montreal?
7 Or is he talking about pilotage between Montreal and
8 Cornwall?

9 Q. About both. He is talking about
10 pilotage from the lakes to Montreal and then from
11 Montreal to Father Point eventually. Would you care
12 to read the excerpt which I have just read?

13 A. Well, sir, I simply don't understand
14 the English here at all.

15 Q. Excuse me. This is a translation.
16 If you care I could supply you with the original which
17 is in French. This is an interpretation of the
18 witness' evidence as done by the interpreters hired by
19 the Commission.

20 A. I am extremely sorry, sir. I am
21 unable to speak French and I don't understand this part
22 of the brief which says: "There was another problem,
23 if my memory serves me right, the problem of letting
24 foreigners or American pilots perform work up to the
25 District of Cornwall to Montreal."

26 I don't know whether that means in
27 the Cornwall District or below Montreal.

28 THE CHAIRMAN: Will you obtain the French
29 text and we will have it translated and try and get a
30 better translation.



1 MR. JACQUES: I have the French text.

2 THE CHAIRMAN: Could you try to give a
3 better translation?

4 MR. JACQUES: I might start earlier in the
5 evidence. It might refresh Mr. Cumyn's memory.

6 THE WITNESS: There is nothing wrong with
7 my memory. I don't understand it.

8 MR. JACQUES: Q. I draw your attention to
9 page 2778 of volume 67 of the French text. I might
10 point out where the translation of the excerpt which
11 I am going to read starts in your volume. It starts
12 in the English text at page 8176.

13 "I draw your attention to a
14 telegram dated the 30th of
15 March, 1960 where Mr. Cumyn
16 declares specifically that the
17 Pilotage Authority has decided
18 to abolish the special pilots
19 practice in Quebec Pilotage
20 District and establish
21 immediately a system of
22 graded pilots under a new
23 system of ships with 10,000
24 tons net together with previous-
25 ly named passenger ships will
26 be served by grade A pilots
27 and ships requiring grade A
28 pilots will pay additional
29 tariff charge of \$25.00 per
30 trip.



1 List of grade A pilots
2 will be released tomorrow.

3 In this telegram it
4 appears as of 30th March, 1960 we
5 obtained \$25.00 per pilot for
6 class A?

7 A. Yes, I understand. However,
8 when we had discussed the abolition
9 of special pilots it was mentioned
10 in a letter signed by Mr. Baldwin
11 that the pilots would not lose
12 the amount paid to the special
13 pilots.

14 Q. Among the problems which you
15 submitted in your brief of March
16 you had mentioned one which related
17 to winter navigation. Has there
18 been any settlement with respect
19 to winter navigation in October,
20 1960? You will note all these
21 problems were dealt with together
22 and it must have been settled at
23 meetings.

24 A. Yes. That is at that time we
25 had asked in view of the fact that
26 winter navigation was increasing
27 that two pilots be placed on board
28 each ship after the first of
29 December, I believe. On the subject
30 of two pilots on board the vessel



1 the Pilotage Authority was in
2 agreement but we were not in
3 agreement. That is they were not
4 in agreement. They did not agree
5 to the date of December 1st.

6 Mr. Alan Cumyn, in Montreal, I
7 believe, had mentioned to us a
8 date which might have been the
9 14th of December.

10 Q. And finally what has been
11 agreed with the Department?

12 A. It was agreed that during
13 the winter navigation there would
14 be two pilots on board vessels
15 as of the 1st of December.

16 Q. Until what date?

17 A. Until the 8th of April.

18 Q. Would the second pilot receive
19 full pilotage dues?

20 A. No, the second pilot would
21 receive a maximum of \$100.00."

22 And then this is the excerpt which I read
23 a while ago:

24 "There was also, I believe,
25 another problem during that time,
26 if my memory serves me right. It
27 was the problem of extending or
28 rather allowing pilotage to be done
29 by foreigners, that is American
30 pilots, in the District of St. Regis



1 from Cornwall to Montreal."

2 A. Then I gather they are dealing with
3 the Cornwall District and not the District below Montreal.

4 Q. Not at that particular point.

5 A. Do you want my comment on the Cornwall
6 District?

7 Q. Yes, please do.

8 A. Well, I had never received any
9 official information that the Americans had expressed a
10 wish to receive the same treatment in the Cornwall
11 District as would be given the Canadian lake ships in
12 the matter of exemptions and so I cannot say that this
13 is a fact, but I do know that the Department policy
14 finally was set in the direction of drawing up by-laws
15 which would give the same exemptions to American lake
16 ships as to Canadian lake ships in the Cornwall District.

17 Q. In the Cornwall District?

18 A. Yes, sir, and I do remember that
19 the pilots objected to this.

20 Q. Prior to October, 1960, say since
21 the 1st of January, 1959 at which time you would become
22 fairly familiar with pilotage since you were appointed
23 in 1958, up until October, 1960 has it ever been a
24 suggested policy or planned policy of the Department
25 to allow Americans to become pilots on the St. Lawrence
26 River as far east as Montreal? I am not saying was it
27 a policy to grant exemptions to American lake ships but
28 was it thought of to allow Americans to become pilots
29 in the St. Lawrence River as far east as Montreal?

30 A. Not at my level, sir.



1 Q. Not at your level?

2 A. No.

3 Q. Now if I may resume my translation,
4 which I think is worse than that done by the translator:

5 "If I understand well at
6 those meetings we protested --
7 (I can skip a few lines which
8 relate to the Cornwall
9 District) -- we were told
10 that in a few years the same
11 pilots who would be allowed
12 to go up to Montreal would
13 also have permission to go
14 as far as Father Point."

15 A. He surely meant would be allowed
16 to go down to Montreal from Cornwall.

17 Q. Those who were allowed to pilot
18 ships as far as Montreal would in a few years time be
19 allowed to pilot ships down to Father Point?

20 A. Well, sir, I don't remember -- if I
21 am accused of making any categorical statement to that
22 effect -- I don't remember making it. I would be
23 prepared to deny it. I would have no knowledge of any
24 policy, departmental policy to that effect.

25 Q. I hasten to add in this evidence you
26 are not accused. No one was accused. You were called
27 this afternoon because Captain Slocombe did not know
28 anything about that and we thought we would go higher
29 up in the scale and find out if someone knew anything
30 about it.



1 A. Well, sir, I gather the witness
2 there has stated that I made the statement.

3 Q. No. He said, "During meetings".

4 A. Well, I don't know how anyone,
5 any departmental official could have made a statement
6 like that because there was no departmental policy
7 set on it.

8 Q. At that time, talking about
9 departmental policy, this was shortly after Bill S-3
10 had died a slow, burning death in the House of Commons.
11 What was the policy stated with respect to exemptions?
12 Do you recall that?

13 A. With respect to exemptions in the
14 Quebec and Montreal Districts?

15 Q. Yes. Let us say from Kingston to
16 Father Point?

17 A. From Kingston?

18 Q. Yes.

19 A. Well I cannot say what the depart-
20 mental policy was. I do not remember that there was
21 any departmental policy. There were certain exemptions
22 in effect under the by-laws in the Quebec and Montreal
23 River Districts and we were in the process of drawing
24 up regulations for the Cornwall and the Kingston
25 Districts -- the Kingston District particularly, with
26 the Americans.

27 Q. I submit to you that there must have
28 been at least this policy in view of the fact that the
29 Department introduced Bill S-3 in the Senate in 1959.
30 There must have been at least the policy that exemptions



1 would no longer be granted according to the flag of
2 the vessel or the size of the vessel but rather on
3 some other criterion, which was stated by the Deputy
4 Minister in the course of the appearance before the
5 Senate Committee to be ability of the Master of local
6 knowledge of the Master of the ship. It must have
7 been at least that policy?

8 A. Well, sir, in the making of Bill S-3
9 I had practically nothing to do. The date will show
10 that. These Bills take a long time to make and I
11 come into the picture only a few months before Bill S-3
12 was presented. So I do not know anything about the
13 policy up to that date. The policy after that Bill
14 was rejected I do not think was very clear at my level
15 at least. I do not know what was going on in the minds
16 of the level above me.

17 Q. Now, sir, with reference to some
18 answers you gave to Maitre Lalonde, you mentioned that
19 you and Mr. Booth had gone to Montreal to meet Mr.
20 Gerin-Lajoie to express the Department's concern about
21 corporations being created. Would you tell me what that
22 concern was?

23 A. I could not do that, sir. That
24 concern did not rest with me. It rested with the
25 department above my level.

26 Q. But surely you were given instructions
27 before you went there?

28 A. No, sir. I simply accompanied Mr.
29 Booth to that meeting.

30 Q. All right then. What concern did



1 Mr. Booth express with respect to these corporations?

2 A. Well, I think, sir, that surely
3 would be best taken from the minutes of the meeting
4 rather than from my memory.

5 Q. Would you have minutes of that
6 meeting available?

7 A. I do not know whether we have or
8 not.

9 MR. JACQUES: My Lord, could we ask Captain
10 Slocombe to check whether these minutes are extant?

11 THE CHAIRMAN: Yes, that is all right.

12 MR. JACQUES: Q. And you have no recollection
13 of what that concern might have been?

14 A. My memory does not serve me well
15 enough, sir, to make any categorical statement as to
16 what Mr. Booth said or what Mr. Gerin-Lajoie said or
17 what I said, and if I cannot make a straight categorical
18 statement I submit I should not be making any statement
19 about something that happened two years ago.

20 Q. It is quite frequent that witnesses
21 are called upon to give evidence on events which date
22 at least two years ago. It must have been rather
23 important and the concern must have been rather serious
24 in the Department's eye, since they sent you and Mr.
25 Booth. What was Mr. Booth then?

26 A. Assistant Deputy Minister.

27 Q. Assistant Deputy Minister, so it
28 must have been considered a major problem to send the
29 Director of Marine Regulations and the Assistant Deputy
30 Minister to meet Mr. Gerin-Lajoie?



1 A. We were meeting a formidable figure,
2 sir.

3 MR. JACQUES: Thank you; thank you very
4 much.

5 MR. LALONDE: Would it be fair to say, if
6 you cannot remember exactly the conversation, that the
7 end result of it was that you were both thrown out of
8 his office?

9 THE WITNESS: Not physically.

10 MR. LALONDE: No.

11 MR. JACQUES: Knowing Mr. Gerin-Lajoie by
12 sight and looking at you I can well agree to that.

13 THE WITNESS: Thank you, sir.

14 MR. LALONDE: Could it be, however, a fair
15 inference of what the representations were that in effect
16 the meeting ended pretty well on instructions to leave
17 the office?

18 THE WITNESS: I do not think so, sir.

19 MR. LALONDE: You do not think so?

20 THE WITNESS: No.

21 MR. LALONDE: You think it was normal
22 relations between departmental officers to send
23 representatives of various groups?

24 THE WITNESS: Mr. Booth expressed his
25 opinion and Mr. Gerin-Lajoie expressed his, both in
26 rather direct terms. I took no part -- practically no
27 part in the conversations.

28 MR. LALONDE: Did you take notes?

29 THE WITNESS: No, sir.

30 MR. JACQUES: Q. If there were a memo of



1 this it would be by Mr. Booth himself?

2 A. Yes.

3 Q. So we will check if that memo is
4 still extant.

5 Now to come to more recent events,
6 do you still entertain concern about the corporations?
7 Are you still concerned about these corporations?

8 A. Personally, sir?

9 Q. Not personally.

10 A. Or is the Department still concerned?

11 Q. Personally I am not interested -- as
12 Director of Marine Regulations.

13 A. Well, sir, I should explain that
14 this concern was mounted at the Deputy Minister's level
15 and I do not see how you can ask me if I still have
16 concern. The concern was held by the Department
17 officers above my level.

18 Q. Well let us say is the Department
19 at your level still concerned about these corporations?

20 A. I do not think I was ever concerned,
21 sir. I have never stated that I was ever concerned
22 and I do not see how you can use the word "still". You
23 are assuming that I was concerned at the time and I am
24 not saying that I was.

25 Q. I did not say you.

26 A. You said at my level.

27 Q. Your Department, at your level, was
28 at least involved in this concern about corporations,
29 since your level was dispatched to Montreal?

30 A. No, sir. Pardon me, sir. I was



1 dispatched with Mr. Booth, who is above my level.

2 Q. Am I right then in saying that in
3 your Department there are watertight bulkheads in
4 matters of policy? There is a policy at the top which
5 never reaches you and there is a policy at your level
6 which never reaches the lower level?

7 THE CHAIRMAN: I think we will get nowhere.
8 I think it is pretty unfair to the witness to ask him
9 what was going on above him. Should you insist on
10 that I think we should have Mr. Booth later on.

11 MR. JACQUES: My Lord, I am sorry. There
12 might be a misunderstanding. I am no longer talking
13 about the concern of the Department at Mr. Booth's
14 level in 1960.

15 THE CHAIRMAN: So change your question.

16 MR. JACQUES: I had asked a question about
17 the concern of the Department today at Mr. Cumyn's level.

18 THE CHAIRMAN: But you used the word "still",
19 meaning that there was before. So now change your
20 question asking as to whether Mr. Cumyn or at his level
21 he has any concern now with regard to the corporations.

22 MR. JACQUES: I have already done so, and
23 I will rephrase my question.

24 MR. MCGILLIVRAY: My Lord, we are again
25 trying to pin individuals in the Department to their
26 particular views on things. We are trying to pin the
27 Department at Mr. Cumyn's level. He is the only person
28 at that level. Captain Slocombe is prepared to brief
29 himself on what is the departmental policy on this
30 question and to come in and give the answer. Mr. Cumyn is



1 coming in on it cold and I think it is difficult for him
2 to give the answer -- speaking for the Department, not
3 just for himself.

4 MR. JACQUES: I am satisfied. I do not
5 care who stands in the witness box and states what the
6 policy was at various levels so long as it is done.
7 Thank you, sir.

8 THE CHAIRMAN: Do you think any useful
9 purpose would be gained by us knowing that some officials
10 were against or for the corporations?

11 MR. JACQUES: My Lord, if I may explain,
12 this business of various levels did not come from this
13 side of the table. It came from the witness, who
14 mentioned his level. At first we asked questions on
15 policy in general. We do not want to know what the
16 policy of the Director of Marine Regulations is and
17 what the policy of the Director of the Nautical Division
18 is, or the policy of the Deputy Minister is. I do not
19 think we are interested in that. We take policy as a
20 whole and frankly I expected Mr. Cumyn, since he is
21 fairly high in the heirarchy of the Civil Service in
22 the Department of Transport, to be fully conversant with
23 the policies of the Department. I do not wish to split
24 the policy into various levels. All I want is the policy
25 of the Department and all I want to know is whether today
26 the Department still entertains the concern which it
27 entertained against corporations in 1959 or 1960 -- I
28 forget the date.

29 THE CHAIRMAN: Yes. We know there was a
30 concern at the time.



1 MR. JACQUES: And I should like to know
2 what that concern was and, if they are still concerned
3 about these corporations, what the concern is.

4 THE WITNESS: My Lord, may I speak?

5 THE CHAIRMAN: Yes.

6 THE WITNESS: Questions of this nature that
7 we are discussing now are settled, I would say, in
8 conversations between the Deputy Minister and the
9 Pilotage Authority. I take no part in those consultations
10 or those discussions and in respect of this matter I
11 cannot be expected to know what passed between the Deputy
12 Minister and the Pilotage Authority.

13 I simply accompanied Mr. Booth to
14 this meeting. He carried out, no doubt, the orders
15 of his superiors. I was not consulted. How can I,
16 at my level, be expected to have a departmental opinion
17 on the matter?

18 MR. JACQUES: Q. Would it be a fair way
19 of summing up that as far as your level is concerned --
20 and again I say "level" because I do not want to say
21 you personally -- as far as your level is concerned
22 you are aware that in 1959 there was concern, official
23 concern, about these corporations and that is as far
24 as it goes? You do not know whether they are still
25 concerned about these corporations today?

26 A. Absolutely.

27 MR. JACQUES: Thank you.

28 THE CHAIRMAN: I can see many reasons why
29 myself, because I just look at the corporation of
30 British Columbia, which is a recent one, and I know that



1 there are quite a few problems arising from that. I
2 would be concerned as a lawyer just looking at what
3 is going on over there. That may be the kind of
4 concern.

5 MR. JACQUES: Yes, My Lord, I could find
6 numerous grounds for concern if I wanted to sit down
7 and write them out; but in picking one or several
8 of these grounds I might be wide of the mark and I
9 do not think we should speculate. We should have an
10 authoritative statement of what the concern was and
11 if they still feel concerned.

12 THE CHAIRMAN: We already know the nature
13 of the concern of the Shipping Federation because we
14 have had that before.

15 MR. JACQUES: There could not be the
16 slightest doubt now.

17 -----

18 CROSS-EXAMINATION BY MR. LALONDE:

19 Q. Let me try to refresh your memory,
20 if I may. Do you know what was and what is the concern
21 of the Shipping Federation about pilots' corporations?
22 You must have heard about what their concern was in
23 1959 and 1960 about pilots' corporations?

24 A. No, sir.

25 Q. You have not heard about that?

26 A. No, sir.

27 Q. If I were to tell you that Mr.
28 Booth told Mr. Gerin-Lajoie in your presence that the
29 corporation system should be abolished or done away with
30 and that these were specific instructions, would I be far



1 off the mark?

2 A. I am not prepared to say, sir,
3 whether this statement that you have just made is
4 or is not correct. I have no minutes of the meeting
5 and my memory does not serve me well enough to say this
6 is or is not correct, having in mind in what context
7 the statement may have been made. It is too much to
8 expect of anyone, I think, to expect them to agree
9 to cut and dried statements that were made two years
10 ago.

11 Q. I submit to you that, first of
12 all, the statements were not made two years ago but
13 four years ago at least. Secondly I submit to you
14 that you know quite well that there is no memo of
15 this particular meeting in Montreal.

16 A. Just, I would say, the fact that
17 they were made four years ago makes my case still
18 stronger.

19 Q. But you know there is in effect
20 no memo of this meeting?

21 A. I am not aware of any.

22 Q. In 1959 and 1960 you were aware,
23 were you not, that American "pilots" were taking ships
24 regularly as far down as Montreal? Do you remember
25 that?

26 A. We have received complaints from
27 the Cornwall pilots that in certain cases American pilots
28 were contravening the Shipping Act in piloting ships
29 to Montreal, yes.

30 Q. Do you remember what steps were



1 taken by your Department to prevent this from happening?

2 A. Our Pilotage Superintendent in
3 Montreal, as well as he could, endeavoured to catch these
4 pilots -- catch them leaving the ships and boarding
5 these ships -- and report it to us as to what he had
6 found. We got into touch with the immigration
7 authorities.

8 Q. You are talking about 1959-1960,
9 not last year -- right?

10 A. At that time I do not remember
11 that we did anything beyond asking our representatives
12 to look into the matter.

13 Q. And you do not remember having
14 ever said in the meetings that this practice might
15 very well extend later on to lower Districts?

16 A. No, sir, I do not.

17 Q. You remember, however, that the
18 pilots made very strong representations in that respect
19 during those years?

20 A. Against the practice in the Cornwall
21 District?

22 Q. Yes?

23 A. Yes, sir.

24 THE CHAIRMAN: Will there be any further
25 questions of Mr. Cumyn?

26 MR. JACQUES: Thank you very much, sir.

27 THE CHAIRMAN: We will break now for ten
28 minutes.

29 ---SHORT RECESS.

30 -----



1 THE CHAIRMAN: I had conversation with
2 counsel with regard to the problem that we have for
3 tomorrow. As you all know, on Saturday the Commission
4 is travelling from Kingston to Cornwall on board ship
5 in order to acquaint ourselves with the features of
6 the routes there as we have done in most of the
7 Districts, most of the sea routes now. We were
8 unfortunate in not being able to do so before. Twice
9 we tried and twice we couldn't go for various reasons.

10 Tomorrow afternoon we will have
11 to leave by train at 4:20. That means we will have
12 to adjourn a little before, and I propose and counsel
13 have agreed to have only a one-hour adjournment at noon,
14 from one to two, and then we will salvage part of the
15 afternoon by sitting for an hour and a half, up to 3:30.
16 We will adjourn tomorrow at 3:30 and resume again on
17 Monday morning.

18 CAPTAIN SLOCOMBE, Recalled

19 CROSS-EXAMINATION BY MR. LALONDE:

20 Q. Captain Slocombe, in your evidence
21 you stated that nowhere else was there time allowed for
22 travel time from home to office, or nowhere was
23 travelling time of that sort considered as working time.
24 Do you remember stating that?

25 A. I don't remember whether I said
26 nowhere else. I just made a comparison, for instance,
27 with office workers and so on.

28 Q. Did you ever look at collective
29 agreements in the construction industry, for example?

30 A. No. I have heard of portal to portal



1 mine agreements and so on.

2 MR. JACQUES: The Workmen's Compensation Act
3 also affords coverage to the employee while he is
4 travelling to and from his place of business.

5 MR. MacGILLIVRAY: Whether he is paid or
6 not.

7 THE CHAIRMAN: I think the difficulty in
8 this question is when we use the word "work". I don't
9 think the word "work" should be used unless it is well
10 defined. It is time; time of this and time of that,
11 because travelling to get to a place, when it is a
12 place out of the way -- I know that plumbers, for
13 instance, when travelling from their place to our
14 place are going to call that work and make you pay for
15 it. It is part of their duty to reach the place in
16 order to perform their work, so it is part of their
17 work to go to the place.

18 I think this is another question,
19 when you use a contentious word, "work", then you are
20 bound to have trouble.

21 MR. LALONDE: I didn't want to open an
22 argument here.

23 THE CHAIRMAN: No, I just made that remark
24 to clarify the point.

25 MR. LALONDE: Q. You refer to the control
26 of traffic during the thawing period on the river by
27 the Regional Supervisor. Do you remember?

28 A. Yes.

29 Q. You said there was strict control
30 established now. Are you aware that this control was



1 initiated at the request of the pilots themselves?

2 A. I wouldn't be a bit surprised.

3 Pilots have made very many good suggestions.

4 Q. Referring to manning in the stations,
5 Quebec City, the telecommunications station at Quebec
6 City, you said they had two full-time people?

7 A. No, excuse me, Mr. Lalonde. It is
8 two full-time positions.

9 Q. Yes.

10 A. Which meant that there are two
11 positions manned 24 hours a day.

12 Q. Yes, I am sorry. That is what I
13 meant to say also. Do you know whether this represents
14 any change from what the situation was last year?

15 A. I don't think so. I questioned
16 that myself, and I didn't have time to ask anybody. I
17 think that was not an additional, but that as far as
18 coverage is concerned, they have improved things.

19 Q. Now, about the pilot boats in
20 this question, is there any reason why the old names were
21 not retained? ABRAHAM MARTIN, and the CITADELLE. Why
22 it wasn't transferred to new pilot boats?

23 A. There was no reason why they should
24 be, and this was a policy which we followed when boats
25 were constructed by the Department, new boats for
26 pilotage.

27 Q. So you found it was more poetic to
28 have a straight Number 9 and Number 10 boat?

29 A. I'm afraid that didn't come into it.

30 Q. Secondly, is there any reason why



1 they were not given any French name? As far as I know
2 it is CANADA PILOT BOAT NUMBER 9 or 10.

3 A. Are they not changed yet?

4 MR. JACQUES: That is bilingual.

5 THE WITNESS: There is a "e" on the end of
6 "pilot" now, is there not?

7 Q. I understand there is a "e". I
8 have found no reference to it in French. You were to
9 check yesterday, Captain Slocombe, further into the
10 matter of the $4\frac{1}{2}\%$, how it was arrived at. Did you have
11 time to go into this matter?

12 A. Yes, but there is really nothing
13 more to say about it. $4\frac{1}{2}\%$ was arrived at --you were
14 wondering what was the target income which was
15 contemplated for Quebec?

16 Q. Yes.

17 A. Well, it was \$14,000.00 which was
18 mooted, and the $4\frac{1}{2}\%$ was merely an extra amount between
19 \$14,000.00 and what had actually been earned in the
20 previous year. Very rough.

21 Q. Certainly it is very rough because
22 it is pretty far off beam the way I calculated it last
23 night.

24 A. $4\frac{1}{2}\%$ would have been \$666.00, I think,
25 instead of \$700.00.

26 Q. \$664.20?

27 A. That is right. That is what I got
28 last night, but this is a little less.

29 Q. Well, it was \$14,762.00?

30 A. Yes, this is correct. As I said



1 before, this was purely a starting point for discussion.

2 Q. How was that \$14,000.00 arrived at?

3 A. Just as I say, something to start
4 at.

5 Q. I presume some consideration must
6 have been taken of the workload at the same time, or
7 was it just a matter of income consideration without
8 any reference to workload?

9 A. Oh, I think it was pretty well
10 income alone.

11 Q. Income alone?

12 A. Taking it for granted that the
13 workload should be adjusted if necessary.

14 Q. You said this amount was arrived
15 at without any reference to whether pilots in that
16 District were making so many trips a year compared
17 to pilots in another District, or whether they would
18 be working 2,000 hours a year versus 200 in another
19 District; no reference at all to workload?

20 A. Well, there was a rough -- just
21 looked at roughly, as I say. This was not picked on
22 by me. I am trying to say what the Department was
23 doing on this, and I stress again this was merely a
24 starting point for discussion. As I said yesterday,
25 the Shipping Federation might have claimed it was too
26 high, the pilots would have claimed it was too low,
27 and it was a matter of just something to discuss.

28 Q. But even if it was only a matter
29 for discussion, I would have thought a very close look
30 would have been given first before suggesting even a



1 figure of what the workload should be or would be or
2 was, compared to other Districts in that particular
3 instance. Don't you think it would have been normal
4 to expect that?

5 A. Yes, and I think this was looked
6 at too.

7 Q. If this was looked at too, I would
8 like you to tell me how much it was looked at.

9 A. It wouldn't be relevant really
10 because there was no decision, no real study of
11 comparing of them or anything like that.

12 Q. Isn't it fair to say then that it
13 was decided on a mere guess without reference to
14 workload for all practical purposes?

15 A. I wouldn't say that. Taking it
16 itself, it was considered that the Quebec pilots were
17 earning a little more than that then.

18 Q. Than what?

19 A. Then, not than.

20 Q. A little more than?

21 A. They had in a previous full year.
22 They had made \$14,700 and something.

23 Q. Yes?

24 A. And the workload as far as we could
25 see had not been excessive.

26 Q. Yes?

27 A. But now here again --

28 Q. But were there not other Districts
29 where compared to the previous years the earnings had
30 increased, and there was no excessive change in workload?



1 A. Saint John, New Brunswick.

2 Q. Yes?

3 A. This was the other.

4 Q. Did you look at the British Columbia
5 one?

6 A. I don't know. This letter was
7 sent to them all. The original letter.

8 Q. Yes?

9 A. But I think the Department had not
10 got around to going farther than Quebec and Saint
11 John when the furor burst out.

12 Q. I would like you to check on this
13 matter, and be sure whether it was just a matter that
14 the Department had not got around to the other Districts
15 yet. Would you mind checking that?

16 A. I can say from my memory these
17 two Districts were felt to be higher than the rest.

18 Q. Yes?

19 A. To justify starting the discussion.

20 Q. But you didn't have the same feeling
21 at all in connection with B.C.?

22 A. I'm afraid I can't answer that
23 question, Mr. Lalonde. I would have to look back in
24 the files to see whether it was discussed.

25 Q. Last night I spent some time looking
26 at your Exhibits, 1294 and 1298, etc., and I was
27 looking at the alleged number of hours on assignment
28 between the various Districts. I noticed that some
29 Districts had comparatively few hours on assignment,
30 fewer than Quebec, without having a substantially lower



1 income.

2 Should I infer from this that you
3 looked only really at income and did not look too much
4 at the other side of the table which was hours of
5 assignment?

6 A. I think perhaps you are thinking
7 of the Districts where -- there are Districts where
8 the time on assignment must be added to the time
9 keeping watch where they do their own dispatching.

10 Q. So really when you arrived at
11 your figure and your calculations, you did not use
12 the figures which have been tabled before this
13 Commission as Exhibits?

14 A. Oh, yes, but as I told you before
15 these figures that we have in the Exhibits are the
16 actual times on board ship. Consideration is given and
17 was given by the Department to the fact that pilots
18 are engaged on pilotage duties as you might say or
19 pilotage work.

20 Q. I submit to you that when this
21 decision was reached you did not have at that time yet
22 the figures and the machinery to calculate the hours
23 of assignment?

24 A. That is possible. I don't know.

25 THE CHAIRMAN: I may add here that we have
26 had all these figures. We are not taking them for
27 granted. We are checking them very carefully. Secondly,
28 the time of assignment is not very important. To give
29 you an extreme case, we have Saint John, New Brunswick,
30 where we find you are obliged to keep a strength of



1 pilots there for three or four months, and pilotage
2 drops off for the other eight months to about 20% of
3 what it was, and the strength has to be maintained,
4 so therefore when you take average time of assignment,
5 it means nothing.

6 MR. LALONDE: I quite agree with you, My
7 Lord, and indeed, when I look at Saint John, 400 hours
8 a year on assignment, I don't think it is very
9 meaningful. Or Sydney with 146 hours a year. However,
10 when this gets out in the Press and in the public --

11 THE CHAIRMAN: I will go further. As far
12 as Saint John is concerned they cannot work 24 hours
13 a day in most jobs because they have to go with the
14 tide, so therefore they are limited. Even daylight
15 jobs, some jobs have been done only in daylight, and
16 at the high tide, so therefore some jobs can be done
17 only in two hours or three hours during that day.
18 Therefore, it cannot be compared with B.C. where they
19 can do the job 24 hours a day and 12 months a year.

20 MR. LALONDE: I quite agree, My Lord.

21 THE CHAIRMAN: We have noted that.

22 MR. LALONDE: Except that these figures
23 must be used somehow. They should serve some purpose.

24 THE CHAIRMAN: There should be a question
25 mark.

26 THE WITNESS: We quite agree that they suffer
27 the same disadvantage as every statistic.

28 THE CHAIRMAN: That is the trouble with
29 statistics. They have to be compared.

30 MR. LALONDE: Now, I have some questions



1 which are not concerned with Quebec only. If you wish,
2 I may keep them for the end. They are concerning
3 the Department generally, arising out of Exhibits which
4 have been filed by Captain Slocombe, Exhibit 1294. I
5 would prefer that this be kept to the end.

6 THE CHAIRMAN: As you wish. Mr. Lalonde,
7 it is about statistics, but 1294 is concerned with a
8 statement of revenue and expenses for the fiscal
9 year 1962-63.

10 THE WITNESS: I would appreciate it, Mr.
11 Lalonde, if that kind of question would be kept for
12 Captain Jones.

13 THE CHAIRMAN: And also in order that he
14 could prepare himself, if you would tell him what
15 kind of question you are going to ask so he could
16 dig up the information.

17 MR. LANGLOIS: Captain Slocombe, yesterday
18 you stated that the Department had ice observers
19 between Montreal and Quebec at different places,
20 namely at Batiscan and Grondines and these observers
21 made reports three times weekly. Now I would like to
22 know whether these observers are for flood control
23 purposes or for ice navigation purposes?

24 THE WITNESS: They might be for both
25 purposes, Mr. Langlois. These are not on our staff.
26 They are under Marine Works staff.

27 MR. LANGLOIS: Do they report more frequently
28 when ships are on passage between Montreal and Quebec?

29 THE WITNESS: I understand there is a
30 continual contact when ships are actually on passage.



1 That is what I understand.

2 THE CHAIRMAN: That is what you said.

3 THE WITNESS: Yes, I think so.

4 MR. LANGLOIS: When ships are leaving
5 Three Rivers in the morning where can they get
6 pertinent information as to ice and weather conditions
7 at Batiscan and Grondines?

8 THE WITNESS: I do not know.

9 MR. LANGLOIS: Is there any means available
10 to your knowledge?

11 THE WITNESS: I just do not know. I can
12 ask this or get somebody to come and explain this
13 system if you want it.

14 MR. LANGLOIS: Could you please find out?

15 THE WITNESS: But if there is any complaint
16 about this, let us have it and we will pass it on
17 to the Branch concerned. This thing is useless unless
18 it serves its purpose.

19 MR. LANGLOIS: Is it possible for these
20 two signal stations to be left open all through the
21 year?

22 THE WITNESS: I do not know again. This is
23 for the signal station part or the ice observer part?

24 MR. LANGLOIS: Could not the signal station
25 attendant be an ice observer at the same time?

26 MR. JACQUES: Sorry to interrupt, but there
27 was some evidence in Montreal given by Mr. -- I have
28 forgotten his name; he was from the signal service.
29 He explained to the Commission that during wintertime
30 when a vessel was either coming upriver or going down-



1 river they manned the station and all the reports
2 came through to Montreal and the pilot is supposed to
3 be briefed before boarding the ship by the Pilotage
4 Service.

5 THE WITNESS: I am afraid I cannot
6 contribute anything useful on this.

7 THE CHAIRMAN: If you have a special
8 question on that you might write it out and give it
9 to either our counsel or the Secretary and we will
10 get the proper witnesses brought.

11 MR. LANGLOIS: Thank you, My Lord.

12 MR. JACQUES: I recall the name of the
13 witness. He was Mr. Monaque.

14 MR. LALONDE: No further questions, My
15 Lord.

16 THE CHAIRMAN: So we are passing now...

17 MR. JACQUES: To Quebec--Montreal, My Lord.

18 Q. Question number 1, the development
19 and changes since June, 1963 with respect to the
20 number of pilots, by-laws and administrative matters
21 in general.

22 A. Two amendments have been made to
23 the Montreal Pilotage District general by-laws since
24 June, 1963. Order-In-Council PC 1964 -- 20 dated
25 January 10th, 1964 included the giving to the District
26 Supervisor the authority to fine a pilot or apprentice
27 a sum not exceeding \$40.00. This was just replacing
28 the provision which had been taken out some time before.

29 Q. Would you explain why it was taken
30 out first and then replaced?



1 A. I did explain this before, Mr.
2 Jacques. Do you want it again?

3 Q. No, no.

4 A. The amendment also raised the
5 tonnage limit for a grade B pilot from 7,000 tons to
6 8,000 tons.

7 Another one, Order-In-Council PC
8 1964 - 644, dated April 30th, 1964 concerned new
9 tariff charges at St. Lambert wait wall and a VHF
10 transmitter-receiver radio-telephone station which has
11 been established and licensed at the Montreal Pilotage
12 Office to augment the communications systems in
13 Montreal Harbour and the Seaway.

14 Q. It is reserved strictly for
15 Montreal Harbour and the Seaway?

16 A. Well, they are limited to line of
17 sight.

18 Q. To line of sight, but it is
19 reserved for communications between the Pilotage
20 Office and the Seaway?

21 A. Oh, I did not say that. I said
22 that it augments the communication systems.

23 Q. I see. When was it brought into
24 operation?

25 A. I have not got the date here --
26 some time since June, 1963.

27 Q. Have you evaluated the performance
28 of this new station -- or rather the performance
29 of the communication network since the installation of
30 this new VHF station?



1 A. As far as we understand it is
2 working very well.

3 MR. LALONDE: Do you know whether there
4 are any plans to establish a VHF station at Three
5 Rivers in Quebec pursuant to your experience in
6 Montreal?

7 THE WITNESS: We have not got the money
8 yet, but obviously if it works well in Montreal it
9 will be good for these other stations too.

10 MR. LALONDE: Have you reached any decision
11 in that respect, aside from the money aspect?

12 THE WITNESS: I can say now, yes, we would
13 like to do it.

14 THE CHAIRMAN: That would be only for the
15 port. VHF does not go very far.

16 MR. LALONDE: Yes, My Lord.

17 THE WITNESS: We would like to equip all
18 stations with this equipment.

19 THE CHAIRMAN: Excuse me; those amendments
20 to the by-laws, are they going to be provided and
21 annexed to the original Exhibit? I do not recall the
22 number.

23 MR. JACQUES: Yes, My Lord, it will be done.

24 Q. The second question refers to
25 any money spent on the construction of a wharf for
26 the pilot boat in Three Rivers.

27 A. Yes. During the 1956 season of
28 navigation the Montreal pilots used a landing stage
29 situated near the center of the harbour of Three Rivers
30 as a site from which to board ships when changing pilots.



1 Q. Do you recall who owned the landing
2 stage? Was it National Harbours Board or D.O.T. or
3 Public Works?

4 A. I do not remember. Late in the
5 season the pilots brought to our attention the fact
6 that certain work in progress in the harbour of
7 Three Rivers made a change desirable in the location
8 of the boarding station. They recommended that the
9 new site be located at Point Des Ormes approximately
10 $3\frac{1}{2}$ miles upriver but within the limits of the harbour.

11 A representative of the Department
12 visited Three Rivers on March 21st, 1957 to discuss
13 this move with the Montreal Pilots' Committee and the
14 Three Rivers Boatmen Limited and because the site
15 which was suggested to be abandoned was an inconvenient
16 one from a navigational point of view, the change to
17 Point Des Ormes was supported by the Department and
18 plans were made to proceed in 1958 with the construction
19 of a suitable wharf.

20 In the meantime commencing May 27th,
21 1957 a Notice to Mariners was issued stating that
22 ships would change pilots off Point Des Ormes instead
23 of at the turn of Three Rivers. It was first decided
24 that the wharf would be constructed by the people in
25 the marine agency in Sorel, but in August of 1958 it
26 was decided that the wharf construction and dredging
27 would be turned over to the Public Works Department.
28 A sum of \$35,000.00 was in the 1958 estimates to start
29 the work.

30 On July 22nd, 1959 tenders were



1 obtained for the wharf in Point Des Ormes and the
2 lowest bid of \$99,745.00 was accepted. Some delay
3 was experienced in the construction of the wharf
4 because the contractor went in bankruptcy. However,
5 the wharf was completed in 1960 at a total cost
6 of \$99,762.20 including dredging and inspection costs.

7 Q. Do you know if this wharf is used
8 solely for pilot boats at Three Rivers or is it put
9 to any other use?

10 A. Supposed to be for the pilot boats.
11 Whether anything else ties up there we haven't heard
12 anything about that. I have no information on that.

13 Q. Question number three refers to:
14 Any decision reached with respect to changing over of
15 pilot at St. Lambert lock.

16 A. You asked in this question what
17 decision was reached, if any, with respect to changing
18 over of pilots in St. Lambert lock. There is another
19 question, question 27, which asks for the history.
20 Now I will answer this question three: The harbour
21 pilot takes the vessel into the lock and is paid extra
22 if he has been at the wait wall. This will be explained
23 in the answer to the other question.

24 Q. Is that decision in accordance with
25 the survey or the conclusions of the survey made by
26 Messrs. J. T. R. Campbell and Company Limited?

27 A. Not quite. They suggested that the
28 Cornwall pilots disjoin below the lock and be paid
29 extra for it. This will be gone into in the answers to
30 the other questions.



1 MR. JACQUES: Might we file the survey
2 report?

3 THE SECRETARY: It has been filed.

4 MR. JACQUES: Q. I am instructed there
5 was lengthy exchange of correspondence between the
6 Minister of Transport and the Shipping Federation with
7 respect to the St. Lambert lock problem. Were you
8 aware of that?

9 A. Oh, yes.

10 Q. When you deal with question number
11 27, will you bring this correspondence with you so
12 that if it is useful it might be filed?

13 A. Yes, certainly. Would you want
14 copies of it or would you want to have it read?

15 Q. Read it into the record unless
16 it is quite lengthy.

17 MR. LALONDE: I submit it could be filed.

18 THE WITNESS: We will have copies made of
19 all the correspondence with regard to Lambert lock
20 with the Shipping Federation.

21 THE CHAIRMAN: We will give it a number
22 right away.

23 THE SECRETARY: That will be Exhibit No.
24 1331.

25 ---EXHIBIT NO. 1331: Exchange of correspondence between
26 Department of Transport and
27 Shipping Federation with regard to
changing of pilots at St. Lambert
lock.

28 MR. JACQUES: Q. Would you have any with
29 the various pilots on the same subject?

30 A. Oh, yes. We must have those. This



1 is quite voluminous.

2 THE CHAIRMAN: Is the case settled now?

3 THE WITNESS: Yes.

4 THE CHAIRMAN: In that case we could have
5 the file.

6 THE WITNESS: Yes. All the files are at
7 the disposal of the Commission. You would not need
8 this immediately?

9 THE CHAIRMAN: No.

10 MR. JACQUES: I am advised, My Lord, that
11 this problem will be reviewed again. I have here a
12 letter addressed by Mr. J. R. Baldwin, the Deputy
13 Minister, to the Chairman of the Pilotage Committee.
14 "I acknowledge your letter of July 3rd, 1964 addressed
15 to the Minister in reply to his letter commenting on
16 the number of points arising from the recent amendment
17 to the Montreal Pilotage District by-law which dealt
18 with pilotage at St. Lambert, P.Q. I have noted the
19 observations contained in your letter and confirm our
20 intention to review the matter of pilotage at St.
21 Lambert lock before the commencement of the 1965
22 season of navigation."

23 THE WITNESS: But it is settled for this
24 year, My Lord.

25 THE CHAIRMAN: So I think that some of us
26 will have to review the file and find out what is
27 pertinent for us. We will do that at a later date. We
28 will file it under 1331 which you have just mentioned.

29 MR. JACQUES: The next question, number 4,
30 is: Was underkeel clearance for Montreal changed since



1 June, 1963?

2 A. Yes, there was a change effective
3 April 2nd, 1964 and unless it is required to be
4 read into the record I might file the teletype sheets
5 giving the figures. I don't know if it has a number.

6 Q. Has the underkeel clearance decreased
7 or increased?

8 A. Decreased, I think.

9 THE CHAIRMAN: Those are only a few lines
10 and I think you might as well read them in the record
11 so we won't have to look them up.

12 THE WITNESS: Well, these are the changes
13 which have been passed to us by the teletype from
14 Montreal: Ships of beam up to 55 feet with approxi-
15 mate dead weight up to 8,500 tons new clearance is
16 2 feet; the old clearance was 2 feet 6 inches. Beam
17 55 to 65 feet, dead weight 8,500 to 13,500, new
18 clearance 2 feet 3 inches; old clearance 2 feet 5 inches.
19 Beam 65 feet to 75 feet, dead weight 13,500 to 18,500,
20 new clearance 2 feet 6 inches; old clearance 3 feet.
21 Beam 75 feet to 85 feet, dead weight 18,500 to 23,500,
22 new clearance 2 feet 9 inches; old clearance 3 feet
23 3 inches. Beam over 85 feet, dead weight over 23,500,
24 new clearance 3 feet; old clearance 3 feet 6 inches.
25 That is all the information.

26 Q. So it is a 6 inch reduction generally
27 speaking?

28 A. Approximately, yes.

29 Q. Do you know if this is of a
30 permanent nature? Or temporary, owing to the shortage



1 of water in Montreal harbour?

2 A. I think this would have been due
3 to the shortage of water.

4 Q. You don't know whether it is
5 going to be maintained at this level henceforth?

6 A. This would depend upon the
7 deliberations of the Committee that decides on this.

8 THE CHAIRMAN: What is this Committee?

9 THE WITNESS: Committee of the Board of
10 Trade of Montreal who instruct the Port Warden in
11 this matter.

12 THE CHAIRMAN: Pursuant to their powers
13 that they have by statute?

14 THE WITNESS: Yes.

15 MR. JACQUES: Q. The next question refers
16 to the office of Port Warden in Quebec and Montreal.
17 Those two offices are under special statute and they
18 are the only ones in Canada being covered by special
19 statute now. I understand that representations were
20 made in order to bring Port Wardens, at least in
21 Quebec, under the general law?

22 A. I don't recall this, Mr. Jacques.
23 As far as we know the situations have been satisfactory
24 to all concerned.

25 Q. Now question number 6 deals with
26 the proposed bridge at Three Rivers. You have heard
27 the evidence given by Mr. Land this morning and would
28 you have anything to add in this respect?

29 A. This question is: Give all avail-
30 able information concerning the proposed bridge at



1 Three Rivers, particularly with respect to studies on
2 suitability of site. All I can say on this question
3 of location is the Three Rivers bridge was examined
4 in detail by officials of the Department of Transport
5 and Public Works as well as a special consultant hired
6 for this purpose and the views put forward by the
7 pilots on the question of location and relation to
8 pilotage were carefully considered in this and were
9 examined as well by the Minister when he dealt with
10 the Department and the consultants. In this connection
11 it was recognized that the location of the bridge
12 might have some effect on pilotage and if this turned
13 out to be the case it would be necessary for the
14 Department to take appropriate action to deal with the
15 situation. That is all I can say about this bridge.

16 -----

17 CROSS-EXAMINATION BY MR. LALONDE:

18 Q. Is it not a fact that the pilots
19 were not consulted previously to the decision being
20 announced as to the site but only the pilots having
21 heard about this through public media then made
22 representations to the Pilotage Authority?

23 A. I believe this is the case.

24 Q. Now I am sorry to come back to a
25 question mentioned before, but has any consideration
26 been given by your Department to establish underkeel
27 clearances in the other harbours in the Montreal
28 District other than Montreal Harbour itself?

29 A. No.

30 Q. Have you any knowledge of the



1 representations being made by pilots in the Montreal
2 District to that effect?

3 A. Yes.

4 Q. And what is the reason why you
5 would take the stand that as a Department that no
6 such thing should be done? I understand that there
7 has been a policy decision on that matter and that the
8 policy followed in Montreal will not be followed
9 elsewhere?

10 A. As I recall there is no statutory
11 way in which we can do it.

12 Q. At the present time?

13 A. Yes.

14 Q. I understand that no consideration
15 has been given to amending the relevant Acts so such
16 power could be given to other Port Wardens or other
17 Authorities?

18 A. No.

19 Q. Do I understand you to say it
20 has been decided not to do anything about it?

21 A. It was decided when the request
22 was made that we would not do anything about it now
23 anyway. Now if interested people would make pressure
24 on this -- of course pilots are not the only people
25 interested in this.

26 Q. Yes; but did you have any objection
27 to such a scheme being implemented in Montreal?

28 A. No, I don't think so. If it is
29 good in Montreal it would be good elsewhere.

30 Q. I understand the only reason the



1 thing was not proceeded with was you did not have
2 authority under any Act to do it?

3 A. I would not say that is the only
4 reason it was not done. It is the reason why it
5 was not pursued at the present time.

6 Q. What was the reason why it was
7 not done?

8 A. I beg your pardon?

9 Q. What was the reason why it was
10 not done if it is not only because of the fact --

11 A. If it was not pursued it was
12 not done.

13 Q. I asked for the reason why it
14 was not pursued? Is it because you feel it is not
15 worthwhile or it is a bad idea? What is the reason?

16 A. Here again you hit me on something
17 I don't recall. I don't recall the details of the
18 representations now.

19 Q. The representations, if I may
20 refresh your memory, were that there should be
21 provisions in the harbours of Sorel and Three Rivers
22 in particular -- at least these two ports -- there
23 should be provisions which would establish under some
24 Act underkeel clearance for vessels like in Montreal
25 harbour because the pilots complain once in a while you
26 do have ships that are overloaded and were really
27 scratching the bottom from the start.

28 A. I don't know what was done on this
29 now. I can't remember.

30 Q. Will you check on this matter?



1 THE CHAIRMAN: There was evidence to the
2 effect that if ships were deep to the limit of
3 clearance in Montreal and they would go to Sorel
4 and pop again.

5 THE WITNESS: I would like to look it up
6 in the file.

7 MR. MacGILLIVRAY: Is this a representation
8 made before this Royal Commission?

9 THE WITNESS: To the Royal Commission, you
10 mean?

11 MR. LALONDE: It was made to the Department
12 itself, not to the Royal Commission. It may have
13 been raised before the Royal Commission.

14 THE WITNESS: It was raised before the
15 Royal Commission was appointed.

16 THE CHAIRMAN: That will be all for today,
17 I think.

18 MR. JACQUES: The next question is very
19 short, question number 7. Do you think we have time
20 to answer that question before we leave?

21 THE WITNESS: Well, it is going to take
22 several minutes.

23 MR. LALONDE: I have questions on both
24 of them.

25 THE CHAIRMAN: All right. We will adjourn
26 until tomorrow morning at ten o'clock.

27 -----
28
29
30

ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT

Ottawa

VOLUME No.:

142

DATE:

Sept. 18, 1964.

OFFICIAL REPORTERS

ANGUS, STONEHOUSE & CO. LTD.

BOARD OF TRADE BLDG.

11 ADELAIDE ST. W.

TORONTO

364-5865

364-7383



ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Exchequer Court Building,
Ottawa, Ontario, on Friday,
the 18th day of September, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Cor- poration of Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	for the Canadian Merchant Service Guild
Mr. R. R. Macgillivray	for the Department of Transport
Mr. Colin Mason	for the Dominion Marine Association



INDEX TO WITNESSES

Name

Page

SLOCOMBE, CAPTAIN (sworn):

Direct Examination by Mr. Jacques	18206
	18239
	18277
	18288
	18294
	18300
	18310
	18325
Cross-Examination by Mr. Lalonde	18212
	18233
	18270
	18319
Cross-Examination by Mr. Brisset	18227
	18291
	18306
	18316



LIST OF EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page</u>
1332	Proceedings of inquiry re grounding of M.V.BEACHMORE	18264
1333	Brief of Paul Gerin Lajois, dated March 8, 1957	
1334	List of infractions of N.H.B. bylaws 1959 to 1964 to date and list of complaints alleging infractions received from harbour master	



1 ---On commencing at 10:00 a.m.

2 MR. JACQUES: My lord, I have now the
3 minutes of meetings of the local pilotage committee
4 for the District of Quebec to which the witness has
5 added in red ink the requested information, to wit,
6 whether the recommendation was followed and if not, why
7 not.

8 I note that in one case it was not followed
9 because of legal advice to the contrary. It was
10 concurred in and action taken accordingly in another
11 case. In one case action was postponed pending civil
12 litigation. This exhibit was given a number yesterday.

13 THE SECRETARY: Yes, Exhibit 1321.

14 MR. JACQUES: And since names are mentioned
15 in these minutes, it is filed under the semi-confidential
16 basis. That is, counsel will have access to the
17 documents, but not the public in general.

18 I have been supplied, my lord, with the
19 amendments to the Montreal Pilotage District general
20 by-law mentioned by the witness yesterday, and these
21 might be attached to the exhibit already filed as the
22 general by-law file.

23 CAPTAIN SLOCOMBE, sworn

24
25 DIRECT-EXAMINATION BY MR. JACQUES:

26 Q. Now, captain, we had reached yesterday
27 question No. 7, explanation of reasons for creation of
28 position of regional superintendent.

29 A. Yes. In view of the increasing
30 complexity of the administration of pilotage on the St.



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir-ex
Jacques

1 Lawrence, and the increasing tendency of the pilots
2 to approach the officials in Ottawa, it was considered
3 desirable to have a senior technical officer stationed
4 in Montreal who would coordinate the work.

5 It was hoped that this decentralization of
6 authority to deal with every day problems would make
7 for greater efficiency.

8 Q. When you say a technical officer, do
9 you mean of civil service rank?

10 A. I think we might take it in the general
11 sense this would be a master mariner and not
12 administrator.

13 Q. It was decided to create this position
14 as a result of the fact that pilots were approaching
15 Ottawa directly on matters?

16 A. This is partly it, Mr. Jacques. There
17 were other reasons. There was the difficulty -- and
18 this, incidentally, although I haven't this note here
19 I recall that this weighed very heavily in the case,
20 the fact that there were casualties occurring and it
21 was necessary for there to be as close to the spot
22 as possible a technical officer who could go and
23 interview the master and assess the causes of the
24 casualty immediately. The supervisors at Montreal
25 and Quebec were not technical men -- in Montreal
26 particularly, were not technical men -- and it was
27 felt we should have somebody who would at the same
28 time oversee the three districts.

29 The duties of the regional superintendent
30 were set as follows:



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir-ex
Jacques

1 To exercise general supervision over
2 all aspects of pilotage and marine
3 reporting administration -- what used
4 to be called the signal station -- in
5 the various pilotage districts of
6 the St. Lawrence River from Cornwall,
7 Ontario, seaward to Les Escoumains,
8 Quebec;

9 To be responsible for the efficient
10 operation of all phases of this work,
11 including the operation of pilot
12 boats, dispatching of ships' pilots,
13 reporting movements of vessels,
14 collection and disbursement of
15 pilotage fees;

16 To be chairman of committees appointed
17 to examine candidates for pilots'
18 licences, and to inquire into and make
19 recommendations on various problems
20 affecting efficient operations;
21 To review pilots' casualty reports
22 and submit memoranda thereon,
23 assessing the circumstances.

24 These were the terms or the duties of the regional
25 superintendent.

26 Q. Was a by-law adopted by the Pilotage
27 Authority with respect to the office of regional
28 superintendmtn?

29 A. In what sense a by-law? You mean a
30 by-law of the district?



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir-ex
Jacques

1 Q. He was given authority by terms of
2 reference and it appears that no by-law of the district
3 or any other by-laws for that matter ---

4 A. I think there was, Mr. Jacques. In
5 revision of by-laws we amended the definition of
6 supervisor I think.

7 Q. I stand to be corrected on that, but I
8 don't think the regional superintendent's duties are
9 outlined in any of the by-laws?

10 A. Oh, no. No duties would be outlined
11 any more than my duties are outlined in any by-law.
12 The supervisors' duties are still set out there, and
13 the regional superintendent I think could be considered
14 as a senior representative or representative of the
15 Pilotage Authority senior to the district supervisors.

16 Q. Well then, he was given power to review
17 the decisions of the local supervisors by his terms of
18 reference, was he not?

19 A. That is correct.

20 Q. And yet the local supervisors hold
21 their authority under a by-law, adopted by the Pilotage
22 Authority, and confirmed by the Governor-in-Council.
23 How could you appoint an officer of the department
24 to supervise or reform decisions of any officer who
25 holds his authority under an Order-in-Council?

26 A. I don't quite agree, Mr. Jacques. The
27 supervisor's position is not set up by the by-law.
28 There is a clause in the by-laws which gives the
29 supervisor certain powers, if you like to call it that,
30 but it is not under the by-laws that the supervisor



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir-ex
Jacques

1 is appointed. He is appointed under the Civil Service
2 Act.

3 THE CHAIRMAN: Let us put it another way.
4 The powers of the Authority are those set in the by-law.
5 Nothing else. Under section 329 the Authority has the
6 power to make by-laws for this and that, and when it
7 is done with Privy Council approval, that is the end
8 of it. That is the charter of the authority for that
9 district. Then the Authority before doing anything
10 have to have Privy Council approval. Even for
11 spending money. That is section 328. Therefore,
12 should the Authority wish to delegate any part of its
13 authority, it is said in 327, paragraph 2, it has to
14 be by Order-in-Council, whether it is to the superintendent
15 or to somebody else.

16 Either the regional superintendent is only
17 an advisor or an employee of the Authority, but having
18 no power of his own -- then that is all right, he is
19 just an employee, but if he has to have power of his
20 own delegated from the Authority, there has to be an
21 Order-in-Council.

22 MR. MACGILLIVARY: The definition of
23 supervisor in the by-laws themselves where the
24 supervisor gets his powers, "supervisor" means
25 supervisor of pilots or a person authorized to perform
26 any of the functions of the supervisor. Therefore
27 it is possible under that by-law to authorize the
28 regional superintendent to perform any of the functions
29 that are by by-law given to the supervisor.

30 THE CHAIRMAN: Provided it is clearly



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir-ex
Jacques

1 indicated in the by-law because all the extra power
2 has to be done by specific definition of power 327(2)
3 where it has to be done by Privy Council Order.

4 MR. MACGILLIVRAY: Paragraph 10 of section
5 2 of the Montreal district general by-laws does
6 contain that definition, so that where in the by-laws
7 power is given to the supervisor, the Authority can
8 authorize the regional superintendent to perform that
9 function.

10 THE CHAIRMAN: When he has a delegation of
11 power it is an exception and the exception should be
12 approved.

13 MR. JACQUES: Moreover, my lord, I might
14 point one of the functions of the regional superintendent
15 was to review the decision of the supervisor, to
16 control the duties performed by the supervisor, and
17 how could the supervisor review his own decision under
18 the by-law?

19 MR. MACGILLIVRAY: One of the functions of
20 Captain Slocombe is to review the decision of these
21 people.

22 THE CHAIRMAN: As advisor. As advisor to the
23 Authority because Captain Slocombe's decision would
24 have absolutely no weight except it is the Authority
25 who could say it is going to hand out the decision,
26 but not Captain Slocombe, because the function of
27 Captain Slocombe is not in the by-law anywhere.
28 However, when powers are delegated to someone, there
29 is even a question as to whether the Authority could
30 review the decision afterwards because they have



1 delegated it, and no power being kept -- well, maybe
2 it is delegated, and that is all.

3 MR. JACQUES: Being mentioned in the law.

4 THE CHAIRMAN: This is one of the bigger
5 problems.

6 MR. JACQUES: Officially Captain Slocombe
7 is in pilotage non-existent.

8 THE CHAIRMAN: He is there as an advisor.

9 MR. JACQUES: The Deputy Minister, minister
10 replacing the Minister of Transport when the Minister
11 of Transport is out of town or away, and the local
12 supervisor.

13 THE WITNESS: I don't recall that this
14 question has ever been raised before, my lord.

15 MR. MACGILLIVRAY: I don't either.

16 THE CHAIRMAN: It is very clear in 327,
17 paragraph 2, it can delegate, but whatever it does
18 delegate has to be by Privy Council order.

19 CROSS-EXAMINATION BY MR. LALONDE:

20 Q. I noticed in the second part of the
21 terms of reference what you have just read, I
22 understand these were instructions which were given
23 to the supervisor, or what were you reading from?

24 A. This would be the advertisement,
25 civil service advertisement for the job.

26 Q. I see. Was this definition done by
27 the Pilotage Authority or by the Civil Service
28 Commission?

29 A. Civil Service Commission.

30 Q. The definition of the terms of



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 reference was made by the Civil Service Commission?

2 A. This would be correct.

3 MR. JACQUES: Therefore the Civil Service
4 Commission granted the power to an official of the
5 Pilotage Authority.

6 THE CHAIRMAN: No, we have to make a
7 distinction between powers and duties. Duties
8 could be the duties of an employee, and power, that
9 is something that is possibly deciding, giving a
10 final decision. This is different. The Authority may
11 have plenty of employees, but those who could give
12 this decision would be those who have those specific
13 powers by by-law.

14 MR. LALONDE, Q: The second part which
15 I have just referred to -- I started to ask another
16 question and I changed on the way -- includes
17 responsibilities which to me would appear to be those
18 of the local supervisor under the by-laws; isn't
19 that correct? I read, for instance, Montreal
20 Pilotage by-law, section 3,

21 "The supervisor may make
22 orders for the effective carrying
23 out of this by-law, and without
24 limiting the generality of the
25 foregoing, may make orders with
26 respect to (a) the conduct of
27 pilots and apprentices; (b) use
28 by pilots and apprentices of
29 buildings and premises and (c)
30 the attendance of pilots and



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 apprentices before the supervisor."

2 THE CHAIRMAN: That is the powers.

3 MR. LALONDE, Q: Yes. There is a general
4 term which says "for the effective carrying out of
5 the by-law" he may make orders to that effect. So
6 the second paragraph reads something to the effect
7 that the regional superintendent would be responsible
8 for the efficient operation of the pilotage district;
9 is that correct?

10 A. Yes. In our idea, in our view of it,
11 rightly or wrongly we felt that the local supervisors
12 were responsible to the regional superintendent.

13
14
15 --

16
17
18
19
20 --

21
22
23
24
25 --



1 Q. Now why was it ---

2 A. But I may say, excuse me ---

3 Q. Yes?

4 A. I may say that I think -- and Captain
5 Jones will correct me if I am wrong -- that when
6 any order is put out it is signed by the supervisor.

7 Q. Well, this we may check.

8 A. There might be exceptions but I think
9 that generally speaking it is the local supervisor
10 who signs notices to pilots and so on.

11 Q. I am instructed that several notices
12 to pilots were signed by Captain Catinus or Captain
13 Gendron when they were there. You might check in
14 your records at the local office in Montreal for
15 instance.

16 A. I would not doubt it at all. It is
17 quite possible, because, as I say, this point has
18 never been raised.

19 Q. I would like to know why you felt it
20 necessary, since you had there a local supervisor,
21 for instance in Montreal, to appoint a regional
22 superintendent who would be also responsible for the
23 efficient operation of the district -- which in effect
24 meant two officers, with a senior one, theoretically
25 for filling the same function. I fail to see how this
26 could really affect the decentralization since the
27 power was already there locally with the local
28 supervisor.

29 A. Well, it has been found by experience
30 that the local supervisor needed a lot of guidance,



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 particularly in technical matters.

2 Q. I see, so would it not be fair to say
3 that the main reason for the appointment of a regional
4 superintendent was the fact that your local supervisors
5 did not have enough experience and technical knowledge
6 to properly fulfill their functions?

7 A. If those functions included assessing
8 casualties and technical work, this is correct. I
9 may say that the local supervisor whom we are thinking
10 of at the moment was appointed at the request of the
11 pilots.

12 Q. How many years ago is that?

13 A. It is a number of years ago now, but
14 certainly he was appointed at the time ---

15 Q. Twenty or thirty years ago?

16 A. Oh, no, not as long as that. He was
17 appointed because he was the one who knew the
18 considerable intricacies of the dispatching and so
19 on.

20 Q. Yes, and was he appointed by the Civil
21 Service Commission?

22 A. Oh, yes.

23 Q. I understand no pilot was on the
24 board appointing the local supervisor in Montreal?

25 A. Of course not.

26 Q. I submit to you that this was a
27 decision of the Civil Service Commission period?

28 A. Oh, yes, but the recommendation was
29 very strongly following the wishes of the local
30 pilots.



Slocombe, cr-ex
Lalonde

1 Q. Well, even then I am sure that in the
2 Civil Service these civil service examinations are not
3 dependant upon who recommends him?

4 A. Exactly.

5 Q. When you say "exactly" you say "exactly
6 no"?

7 A. Exactly no, they are not dependant
8 upon who recommends him. But a decision is made as to
9 the suitability of a certain person and all things
10 are taken into consideration.

11 Q. We are not referring to Montreal only
12 -- you had a local supervisor in Quebec, did you not?

13 A. This is correct.

14 MR. JACQUES: He is a superintendent in
15 Quebec.

16 MR. LALONDE: Excuse me.

17 THE WITNESS: He was superintendent before.

18 MR. LALONDE, Q: Before? What is he now?

19 A. He is a local supervisor now. This
20 is just a difference in terms.

21 MR. JACQUES: I am sorry; he is still named
22 "superintendent" in the by-laws.

23 THE WITNESS: Well, the by-laws have not been
24 changed since the name was changed.

25 MR. LALONDE, Q: Then whatever is the
26 name, you still have a person who fulfills the function
27 of the superintendent or the supervisor, but
28 technically it is still the superintendent in Quebec?

29 A. Yes.

30 Q. You had one when you appointed the



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, c-rex
Lalonde

1 regional superintendent?

2 A. Yes.

3 Q. You had a man in Quebec?

4 A. We had a man there, of course, but
5 what ---

6 Q. Why did you feel it necessary to
7 appoint a regional superintendent having authority,
8 if I may use that word, over the local superintendent
9 in Quebec?

10 A. Because perhaps, as it transpires now,
11 owing to a misconception, we understood that the
12 officials in Ottawa had control over the local
13 supervisor and this new appointee was to be, as it
14 were, an extension of the Ottawa staff.

15 THE CHAIRMAN: Excuse me, I do not want to
16 confuse you with what I said. What I said was just
17 for the powers that were delegated. But mind you, when
18 they read the by-law, there are very, very few --
19 almost none. All the other functions the regional
20 superintendent, the local supervisor has are very
21 few. The other functions he has are duties from
22 the Authority. He is just an employee, but he has
23 those powers of management. He has powers to take
24 somebody off the list. He has ---

25 MR. LALONDE: To fine.

26 THE CHAIRMAN: Powers to fine in some cases,
27 not in all districts. That is about all. He does
28 not even have power to make an inquiry. If he makes
29 an inquiry he is acting solely as a representative
30 of the Authority. So therefore he is the Authority.



1 It is just that he cannot sign his name as an
2 individual. He is just going to sign for the
3 Authority and pass it over.

4 MR. JACQUES: And moreso, my lord, with
5 respect to casualties. The only authority the
6 supervisor has is to receive a report of the pilot. He
7 has no further authority at all. In your by-laws
8 it is not provided anywhere that the pilotage
9 authority qua pilotage authority can hold an inquiry.

10 THE CHAIRMAN: This is another question. We
11 will come to that later.

12 MR. JACQUES: You must therefore proceed
13 under the sections of the Canada Shipping Act providing
14 for an inquiry.

15 THE CHAIRMAN: There is a further question
16 on that later on, so we will come to that later.

17 MR. LALONDE: Q: Now if we may come back
18 to our more pedestrian point, is it not a fact that
19 you felt it necessary to appoint the regional
20 superintendent over the local superintendent even in
21 Quebec because you felt that your man in Quebec did
22 not have enough experience, knowledge and ability to
23 do his job properly under the by-law? Would it be
24 fair to put it that way?

25 A. Under the by-law?

26 Q. Yes. In other words that your man
27 in Quebec was not quite competent enough to be left
28 alone with all these duties locally?

29 A. In the technical sense, no.

30 Q. What do you mean by "technical sense"?



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex.
Lalonde

1 A. Well, I mean he could not inquire into
2 a casualty and give an assessment of what had been
3 done -- of the cause of the casualty.

4 Q. Yes, but still if you refer to the
5 second item in the terms of reference, these do not
6 deal mainly with technical aspects. Would you read
7 the details again?

8 A. The last one is "to review pilots'
9 casualty reports and submit memoranda thereon
10 assessing the circumstances".

11 Q. Yes, but I am referring to the second
12 paragraph in the terms of reference where it has
13 duty in connection with pilot boats and -- what is it?

14 A. "All phases of this work, including
15 the operation of pilot boats, dispatching of ships'
16 pilots, reporting movements of vessels, collection and
17 disbursement of pilotage fees; to be chairman of
18 committee ---".

19 Q. Okay. For instance, is it not a fact
20 that the collection and disbursement of pilotage dues
21 is specifically the responsibility of the local
22 supervisor under the by-law?

23 A. Yes, but, as I say, our view was that
24 the local supervisors were responsible to the regional
25 superintendent. Now if the whole basis is wrong,
26 well then, the whole thing is wrong.

27 Q. Well, I am not putting the question at
28 all in legal terms. The question I am asking you is,
29 is it not a fact that you appointed this regional
30 superintendent to be responsible for all that because



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 you did not feel your men, your local supervisors, were
2 competent enough to do the job properly?

3 A. I would not say that -- not in a
4 general sense like that. They were both doing a good
5 job as far as things were going normally. But we
6 needed somebody down there closer to the scene of
7 action so that they could get there faster and
8 somebody who would be, as I say, an extension of the
9 departmental headquarters.

10 Q. But your local supervisors were
11 responsible for the efficient operation of all phases
12 of pilotage, like the operation of pilot boats, the
13 dispatching of ships' pilots, the reporting of
14 movement of vessels, collection and disbursement of
15 pilotage fees?

16 A. Yes.

17 Q. Correct?

18 A. That is so.

19 Q. Why did you hand this responsibility
20 to the regional supervisor?

21 A. These responsibilities that you have
22 mentioned, as set out in the by-laws, continue to be
23 the responsibility of the local supervisor, but in
24 our view, as I said, the regional superintendent was
25 to be a senior superior officer to these local
26 supervisors.

27 Q. In effect you had two men responsible
28 for the same job except that you had defined in your
29 mind one as superior to the other?

30 A. This is it, the same as the Deputy



1 Minister is responsible for what I do.

2 Q. And in that particular field of the
3 general operation of the district the regional
4 superintendent would have been in effect reviewing
5 theoretically everything that the local supervisor
6 would have done?

7 A. Yes. He would be in the same position,
8 I would say, as the regional director in the air
9 services for instance. We have this delegation of
10 authority over the regions.

11 Q. How could this affect decentralization?

12 A. We hoped it would enable less of these
13 contentious problems to come to Ottawa. I am afraid
14 it did not work that way.

15 THE CHAIRMAN: Maybe the reason was that
16 he had no power to decide?

17 MR. JACQUES: I do not think the Department
18 realized it until today.

19 THE WITNESS: I do not think this was ever
20 considered, that it was necessary to have the power in
21 that sense. But certainly if the regional superintendent's
22 decisions had been accepted by those concerned, then
23 we would have been very delighted, but neither the
24 Shipping Federation, the shipping agencies, nor the
25 pilots would accept an unpopular decision either way.
26 If there was anything they did not agree with they
27 telephoned to Ottawa. Well, in this matter we cannot
28 help ourselves.

29 MR. LALONDE: Q: I presume that in your
30 mind the function of regional superintendent was pretty



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 important; is that correct?

2 A. Oh, yes, as a help to the headquarters.

3 Q. Now would you tell me for how long the
4 function of regional superintendent has been vacant
5 in Montreal?

6 A. It is several months.

7 Q. You would not have that in your
8 records before you, as to how long?

9 A. No, we have not. It is since Captain
10 Catinus was brought up to Ottawa to be investigations
11 officer.

12 Q. Yes. In effect is it not correct
13 to state that at least since the opening of navigation
14 of this year there has been no regional superintendent
15 in Montreal?

16 A. This is correct.

17 Q. And it would probably be around February
18 or March that Captain Catinus moved to Ottawa?

19 A. Possibly. I do not know what hangs on
20 it, but ---

21 Q. That is not your problem. Have you
22 noticed a substantial decrease in the efficiency of
23 the operation of pilotage this year up to date due to
24 the absence of the regional supreintendent? That is
25 what hangs on it.

26 MR. JACQUES: What aspect of pilotage?

27 MR. LALONDE, Q: I do not know -- the
28 general operation, the administrative aspect of it --
29 the functions of the local supervisor.

30 A. Well, there have been far more frequent



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 telephone calls and visits between Ottawa and
2 headquarters. But this is not to say there is a
3 reduction in the efficiency. It is merely that we
4 have had to do without the services of the regional
5 superintendent. Just as I have been travelling
6 around with the Commission and they have had to do
7 without me in Ottawa. I might say we are redundant.

8 Q. Did you notice a substantial decrease
9 in the efficiency of the Department --- But I will
10 stop my question there.

11 --- (Laughter).

12 Q. But in effect have you been able to
13 assess any decrease in the efficiency of the
14 administration in the districts of Quebec, Montreal or
15 Cornwall during this season?

16 A. No, but we have exercised supervision
17 from Ottawa, as we did before.

18 Q. Would it be fair to say you also
19 exerted close supervision even when the regional
20 superintendent was there?

21 A. Yes, as far as he needed to be.

22 Q. Would it not be fair to state that what
23 has happened this year in effect is just the abolition
24 of one further step in the decision-making process
25 in the sense that you might have speeded up the
26 efficiency, increased the efficiency of the Department
27 by the fact that the position was not filled?

28 A. Are you suggesting that it would have
29 been better if there had been no regional superintendent?

30 Q. I am asking the question ---



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 MR. MACGILLIVRAY: In the same way as it
2 would be more efficient if you had all local
3 supervisors report directly to the Minister?

4 THE WITNESS: Yes, this is what I had in
5 mind.

6 MR. LALONDE: I am glad to know, my lord,
7 that this is the view of the Department now.

8 THE WITNESS: It is purely a matter of
9 practice. Even now while we are sitting in this
10 court room the work of the pilotage division has to
11 go on and it just means the people who are left
12 behind are doing more work.

13 MR. LALONDE, Q: Did you try to recruit
14 another regional superintendent?

15 A. Oh, yes. It is a matter of civil
16 service competition.

17 Q. Do you any solution in sight to this
18 problem of appointing a regional superintendent?

19 A. Solution?

20 Q. Well, do you see a new appointment
21 coming in the near future or is it a matter of several
22 months?

23 A. I do not know. It is usual with
24 Civil Service appointments. It takes a long time.

25 Q. You said that you had had several
26 phone calls and communications with the local
27 authorities in Montreal and Quebec this year. Is it
28 not a fact that also your local supervisor in Montreal
29 was absent due to illness on several occasions this
30 year even in Montreal?



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 A. This is correct.

2 COMMISSIONER SMITH: Captain, with regard
3 to the value or otherwise of the regional superintendent,
4 Captain Catinus in his evidence in Montreal said this:

5 "Decisions at headquarters
6 are not always according to his
7 recommendations."

8 I suppose that is in the natural course of human
9 differences of opinion and that, but in a general way
10 did you find that it was of particular value to have
11 him there? He says his recommendations are not
12 always accepted.

13
14 --

15
16
17
18
19 --
20
21
22
23
24
25 --
26
27
28
29
30



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 THE WITNESS: Oh yes, sir, definitely so
2 if he is doing a good job but just the same as my
3 recommendation is very often not accepted they have to
4 be reviewed and there are differences of opinion
5 naturally between person and person but we have told
6 the regional superintendent when he was there and
7 also the local supervisors to be in touch with us
8 whenever they are in doubt.

9 COMMISSIONER SMITH: The reason I asked the
10 question is this: There is a bit of inference there
11 that his recommendations are usually accepted. He
12 says they are not always accepted.

13 THE WITNESS: This is correct.

14 COMMISSIONER SMITH: There is an inference
15 that he did supply information and recommendations
16 that were acceptable to the Department.

17 THE WITNESS: Oh, yes, of course.

18 COMMISSIONER SMITH: So that in that sense
19 he was of particular value as a regional supervisor.

20 THE WITNESS: Yes, sir. Of course we
21 would still like the theoretical situation to exist
22 that he would make these decisions and we would not be
23 brought into it at all.

24 CROSS-EXAMINATION BY MR. BRISSET:

25 Q. Captain, when was the first regional
26 superintendent appointed and took office?

27 A. I am afraid, Mr. Brisset, I cannot
28 answer that question now. If it is important I can
29 find out for you.

30 Q. At the time at all events the first



1 regional superintendent was appointed I understand
2 -- if we may use the name and I see no reason not to
3 do so -- that Mr. Melanson was supervisor in Montreal
4 and Mr. Hamel was supervisor in Quebec?

5 A. Correct.

6 Q. And neither had nautical experience,
7 they were not masters or seafaring men with technical
8 knowledge?

9 A. Correct.

10 Q. That is what you implied in your
11 evidence previously that this was the type of knowledge
12 that they lacked and this brought the Department to
13 appoint regional superintendents.

14 A. This is correct.

15 Q. And these regional superintendents were
16 nautical men. I understand there was Captain
17 Gendron and then Captain Catinus?

18 A. Right.

19 Q. Two masters.

20 A. That is correct. May I interject here
21 that I wish to stress that we were not dissatisfied
22 with the services of Mr. Hamel or Mr. Melanson in
23 Montreal. I wish to put this on record. It was
24 my recommendation that Mr. Melanson was appointed and
25 I felt it was a good thing. I used the knowledge
26 I have of Mr. Melanson in the hope there would be
27 peace in the family afterwards.

28 Q. In other words, they were quite
29 suitable in certain fields but they had limitations and
30 therefore were not suitable in other fields?



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Brisset

1 A. This is correct. I think this would
2 be evident to the Commission in the appearances these
3 gentlemen made before them.

4 Q. We have evidence, if I may point it out
5 to you, at page 9671 of the English text, that Captain
6 Gendron was appointed in September, 1959 and resigned
7 in December 1961 and I would assume that Captain Catinus
8 was appointed shortly after December 1961. Would
9 that be correct?

10 A. Yes, as soon as the competition would
11 have been held.

12 Q. Would it be fair to say, Captain, that
13 it was because of the limitations in certain fields
14 of the supervisor or superintendent that they were
15 never appointed to chairs, for instance the meetings
16 of the advisory committee but rather the regional
17 superintendent was appointed to chair these meetings.

18 A. This was correct, Mr. Brisset.

19 Q. Because at these meetings there were
20 technical matters that were reviewed which required
21 particular knowledge?

22 A. This is correct. The representatives
23 of the Shipping Federation were technical men. The
24 pilots, of course, were technical men. It was
25 appropriate the chairman should be someone with
26 technical knowledge.

27 Q. Now, captain, you have made a rather
28 broad statement to explain why the appointment of
29 the regional superintendent did not produce the result
30 that you expected and you stated that the regional



1 superintendent, amongst other things, did not get the
2 support of the Shipping Federation.

3 A. I did not exactly say that, Mr. Brisset.

4 Q. Correct me.

5 A. There is a little difference. I said
6 the Shipping Federation would not accept necessarily
7 the decision of the regional superintendent if it was
8 not pleasing to them.

9 Q. I am advised, captain, that Captain
10 Gendron in fact had more support from the Shipping
11 Federation than he had from the Department of
12 Transport. Would that be correct?

13 A. Possibly this may have been the reason
14 why some of his recommendations were not followed.

15 Q. So actually to continue my line of
16 questioning if the appointment of the regional
17 superintendent did not produce the results that you
18 expected it was more because the Department did not
19 share the views of the regional superintendent rather
20 than that he did not get the support of the Shipping
21 Federation.

22 A. Oh, not necessarily, no.

23 Q. I am a bit at loss then to understand
24 why it didn't work.

25 A. For one thing the Shipping Federation
26 were not the only parties involved in this. The
27 pilots were involved too and this is the job of the
28 Department and the Pilotage Authority to preserve this
29 delicate balance.

30 Q. And then to go against the views of the



18231

ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Brisset

1 regional superintendent and support the pilot, that
2 was more the tendency of the Department at that
3 time?

4 A. Generally speaking?

5 Q. I don't know.

6 A. Definitely not.

7 Q. Well, it does not seem anybody ever
8 agreed from what I hear at this time.

9 A. I think that is rather a wide statement,
10 Mr. Brisset.

11 Q. One of the duties of the regional
12 superintendent you have told us was to review the
13 casualty reports when there was a casualty report of
14 the pilot particularly since he was a technical man and
15 was on the spot. Is that right?

16 A. He was relieving us of the first
17 scrutiny of these casualty reports. The casualty
18 reports are made to the local supervisor who in the
19 case of the good man who we have there was merely
20 stating what the pilot said without any attempt at
21 assessment of whether he was in error or whether he had
22 done right or wrong. The Superintendent helped us
23 by giving us an opinion, an assessment of those
24 discussions which he had with persons on the spot and
25 masters of the ship and so on.

26 Q. In other words, the regional
27 superintendent as soon as a casualty happened would
28 have a report from the pilot and would go on board and
29 try and find out what the facts were to a certain
30 extent.



18232

ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Brisset

1 A. He was supposed to go on board as soon
2 as he could and get the master's story of the case.

3 Q. When you say the "master's story"
4 you mean, I take it, actually what did happen according
5 to the witnesses that were available to him.

6 A. This is what I meant.

7 Q. That did not restrict him to speaking
8 to the master and the master only. He could speak to
9 anybody who could tell him about the facts.

10 A. Oh, yes. He was engaged on a fact-
11 finding mission and he would get all the facts he
12 could.

13 Q. Now having made his findings of fact
14 did he have authority to remove the pilot concerned in
15 a casualty from the assignment list?

16 A. He would if it was a matter of
17 drinking. He would advise the supervisor who was
18 directing the dispatching. He would direct the
19 supervisor that the certain pilot should be kept off
20 in the case of drinking as provided in the by-law.

21 Q. You mean to say this would be done
22 only in the case of drinking?

23 A. Normally, yes, unless he knew that the
24 pilot was not fit in the public interest to take another
25 ship.

26 Q. In other words, there would be two
27 reasons which would bring the regional superintendent
28 to direct the supervisor to remove the pilot from the
29 assignment list -- drinking and unfitness. Is that
30 correct?



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Brisset

1 A. Drinking specifically. I appreciate,
2 Mr. Brisset, you are grinding another axe here.
3 Specifically for drinking but under exceptional cases
4 if he knew that a pilot was not fit to pilot for any
5 reason it would be encumbent upon him to take him off
6 the list in spite of any action that might be taken
7 afterwards. He would have to be very sure that the
8 pilot was not fit.

9 Q. Now, captain, I am advised that in the
10 case of the collision which happened on September 5th
11 between the Appollonia and the Leeccliffe Hall in the
12 vicinity of the Ile de Coudre that the two pilots
13 involved, each of the two pilots and the two on the
14 two ships were taken off from the assignment list ever
15 since the collision occurred. Who would have taken
16 the decision in this case? You have no regional
17 superintendent any more.

18 A. This decision was made by the Pilotage
19 Authority himself and this was done as provided in the
20 Act, upon the decision being made that there was to be
21 the formal investigation and the pilot being informed
22 accordingly that there was to be a formal investigation
23 and that he would not be assigned to another ship
24 until the formal investigation was held.

25 MR. MCGILLIVRAY: Section 555 of the Act?

26 THE WITNESS: 555.

27 CROSS-EXAMINATION BY MR. LALONDE:

28 Q. Now I think, Captain Slocombe, that
29 there is no provision in the law which provides that
30 the formal investigation should be held within a



1 certain delay after an accident. Is that correct?

2 A. No, there is no provision.

3 Q. Would you think it would be fairer to
4 the pilots concerned generally as a general rule if
5 in the case of a formal investigation you would adopt
6 as a policy when you take a pilot off the list that
7 there should be a provision in the Act that the
8 formal investigation should be held within a certain
9 delay; or if the formal investigation is not held
10 within that delay the pilot should come back on the
11 list? Under the present provisions the formal
12 investigation could be held maybe January next and the
13 pilot would be off the list without remuneration all
14 that time.

15 THE CHAIRMAN: Could you observe that
16 point until later? There is a section on inquiries
17 into casualties and I think this will be covered at
18 the time.

19 MR. LALONDE: All right. Thank you, my
20 lord.

21 MR. JACQUES: That is one of the questions.

22 MR. LALONDE, Q: I have a question in
23 connection with the regional supervisor and the local
24 supervisors. I am instructed that the persons
25 responsible for the administration of the station at
26 Les Escoumains was removed or transferred from his
27 duties and nobody was appointed to replace him for
28 a period of around a year and a half. Are you aware
29 of that?

30 A. Yes.



1 Q. Did you notice any substantial decrease
2 in the efficiency of the operation of the station
3 during that time?

4 A. No, but we did send somebody down more
5 often there to assist the people who were left in
6 the working.

7 Q. Who did you send down?

8 A. The local supervisor would be
9 responsible for that.

10 Q. And at that time do you remember who
11 was responsible and who went?

12 A. I am told it was Lahaye, the supervisor
13 at Quebec.

14 Q. Captain Lahaye?

15 A. Yes.

16 Q. I would like you to check this matter
17 during the adjournment because I submit to you Captain
18 Lahaye was appointed only rather recently and that
19 this transfer of the man in Les Escoumains occurred
20 much before. You might check this.

21 A. Excuse me, what exactly are we
22 checking?

23 Q. You are going to check who in fact
24 went down to Les Escoumains more often, as you said,
25 during the time when you had no officer responsible
26 for the operation of the station at Les Escoumains.

27 A. I don't see what hangs on this. I
28 take it it was the local supervisor or the regional
29 superintendent or even somebody from headquarters.

30 Q. Were you aware that for a large part



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, cr-ex
Lalonde

1 of that period the pilots representative took an
2 active part in the operation of the station at Les
3 Escoumains?

4 A. Took an active part? They always
5 should take an active part in the operation.

6 Q. In cooperation with the dispatchers
7 and things like that?

8 A. Of course, and we appreciate that very
9 much.

10 Q. Were you aware of that?

11 A. Yes.

12 Q. You were aware of that fact at Les
13 Escoumains?

14 A. Yes.

15 Q. That pilots were playing an active
16 role in connection with the dispatcher?

17 A. You mean the pilots gave less trouble?

18 Q. Oh no. That is not what I meant.

19 A. You didn't mean that.

20 Q. In effect they were pretty well helping
21 the dispatchers in the management of the station.

22
23 --

24
25
26 --

27
28
29 --
30



1 A Yes, I believe you might say that.

2 We don't quite know all the details whether these
3 decisions were always correct. It is just that we
4 haven't heard otherwise.

5 Q You didn't notice any decrease in
6 efficiency, as I said, during that period?

7 A No, it would not be a matter of de-
8 creasing efficiency anyhow; it would be a matter of
9 possibly a pilot making objection to some action that
10 had been taken with regard to him, and as far as I know
11 we have not had any trouble.

12 Q Isn't it a fact also after Captain
13 Allard left as Local Supervisor in Quebec, there was
14 a period of several months before he was replaced by
15 Captain Lahaye?

16 A Yes. There always is a hiatus be-
17 tween two incumbents of any civil service position.

18 Q During that intermediate period
19 who fulfilled the function? Was there anybody
20 appointed?

21 A Not appointed, but the next in com-
22 mand in the chain of command down there was Mr. Maheux.
23 He would have to carry on and with advice if he needed
24 it by the telephone.

25 Q What was the official function of
26 Mr. Maheux?

27 A He was chief dispatcher.

28 Q How was Mr. Maheux authorized to
29 fulfill the function of the local supervisor? How
30 technically was this done?



1 A Not technically, just merely asked
2 him to carry on as best he could and get in contact
3 with higher authority for any help he needed.

4 Q He was told verbally I presume that
5 he would have to carry on as best he could in the
6 meantime?

7 A Oh, yes, just the same as if the
8 supervisor went off sick. Things have to go on.

9 Q Except that in that case they had no
10 supervisor?

11 A That is right.

12 Q It isn't the same thing quite as if
13 the supervisor were sick. The post was vacant during
14 that time.

15 A Yes, this is correct.

16 Q And this period extended over several
17
18
19
20
21
22
23
24
25
26
27
28
29
30



1 months?

2 A. Yes.

3 Q. Are you aware in that period the
4 pilots also took, let us say, a greater participation
5 than in normal times helping the operation?

6 A. I don't know what greater part they
7 would take except that they would just perhaps desist
8 from making trouble. This has been during the time
9 that the Royal Commission has been sitting also.

10 Q. I submit to you that this has not
11 prevented trouble at some places on the river that
12 you are well aware of.

13 A. This is correct. No, we appreciate
14 that the pilots have carried on while the vacancies
15 have existed.

16 Q. But I understand you are not aware
17 exactly of what greater role pilots representatives
18 might have taken during that time.

19 A. No. I mean they wouldn't be doing
20 any clerical work, but they have always I think been
21 consulted by the local supervisor on any ticklish
22 matters.

23 DIRECT-EXAMINATION BY MR. JACQUES:

24 Q. Do you find it amazing that the pilots
25 perhaps cooperated or helped more than they did before
26 during the interim between when the post of local
27 supervisor was vacant?

28 A. No, not at all. It is to be expected
29 of a responsible local pilots committee.

30 Q. Thank you.



1 A. After all everybody has an interest
2 in the smooth running of the district. We appreciate
3 it nonetheless.

4 Q. It is not something which you did not
5 expect, is it?

6 A. No, not at all.

7 Q. Tell me why did the Department change
8 the name from superintendent to supervisor?

9 A. Oh, this is Civil Service stuff.

10 MR. MCGILLIVRAY: Stuff and nonsense.

11 THE WITNESS: It is a matter of ranks and
12 ratings. I wouldn't try to explain this.

13 THE CHAIRMAN: In section 327 that I just
14 mentioned, they mention superintendents. I think that
15 is the only time in the law, the only time
16 "superintendent" is mentioned.

17 MR. MCGILLIVRAY: The only place in that
18 Statute.

19 THE CHAIRMAN: And there is no decision as
20 to what he is, whatever function he may have, it is of
21 no importance whatsoever.

22 MR. JACQUES: I submit to your lordship
23 in view of the wording of the Act because of the rules
24 of interpretation we must give it a meaning, and the
25 only meaning that one could ascribe to that sub-
26 paragraph of section 327 is that the law authorized
27 the delegation of authority to an office, to a
28 post, which is superintendent, and that the second
29 delegation of authority which is contained in that sub-
30 paragraph is a delegation to a named person whose



1 appointment would have to be made all over again if
2 the person died or resigned his position.

3 THE CHAIRMAN: This seems to be correct.

4 MR. JACQUES: I think it is a very important
5 difference, and my question was directed with that in
6 mind.

7 MR. MCGILLIVRAY: Are you suggesting it
8 could not be a delegation to classes such as
9 dispatchers?

10 MR. JACQUES: I don't know. If that is a
11 legal argument, I am willing ---

12 THE CHAIRMAN: That is all right.

13 THE WITNESS: We have been too busy trying
14 to keep the job moving to wonder about these legal
15 niceties.

16 MR. JACQUES; Legal niceties, Captain,
17 are the very basis of our freedom in Canada.

18 For clarification of the record, I should
19 like to state that Captain Catinus was appointed
20 it appears in July, 1962, because when he appeared
21 before the Commission in July, 1963, he states that
22 he had occupied his position for one year, so therefore
23 the office of regional superintendent from the time
24 Captain Gendron went to Ottawa in December, 1961 to
25 June or July, 1962 ---

26 THE CHAIRMAN: In any event if this is
27 useful we could find out from records later on.

28 MR. JACQUES: For the sake of accuracy
29 we may as well ask the witness to supply dates as to
30 when the various incumbents were appointed.



1 THE WITNESS: You do have it in the record
2 already.

3 THE CHAIRMAN: I think we have enough anyway.
4 This is available. Should we need it, we will find
5 it out. Is there anything else on this question?

6 CROSS-EXAMINATION BY MR. LALONDE:

7 Q. When the local superintendent is
8 appointed, is he named by the Civil Service Commission?

9 A. I beg your pardon?

10 Q. The local or regional superintendent.

11 A. Oh, yes. The appointment is made
12 by name.

13 Q. By the Civil Service Commission?

14 A. Yes, as a result of competition.

15 Q. I see.

16 A. The position itself is also set up
17 by the Civil Service Commission under the Civil Service
18 Act, I assume.

19 Q. Do you know whether an appointee
20 receives a formal letter of appointment from the
21 Pilotage Authority as such?

22 A. There is a certificate of appointment.
23 It is not from the Pilotage Authority. It is from
24 the Department of Transport, the Deputy Minister of
25 Transport.

26 Q. As Deputy Minister of Transport?

27 A. Yes. This is the usual Civil
28 Service appointment, whoever that is.

29 MR. MCGILLIVRAY: As a matter of fact,
30 Captain, isn't the local man the subject of two



1 appointments? He is selected and appointed to the
2 Civil Service by the Civil Service Commission, and he
3 is then appointed to the position as superintendent
4 of pilots or local supervisor of pilots by the
5 Pilotage Authority?

6 THE WITNESS: I have never considered this
7 before. I don't know exactly.

8 MR. MCGILLIVRAY: It is like other positions.
9 In the Canada Shipping Act, the steamship inspectors
10 must be appointed by the Governor-in-Council, but
11 they are first selected by the Civil Service Commission
12 and appointed to the Civil Service.

13 THE WITNESS: But our supervisors are not
14 appointed by the Governor-in-Council.

15 THE CHAIRMAN: Next question?

16 MR. JACQUES: I should like the witness to
17 file as an example the appointment of one local
18 supervisor, his appointment under the Civil Service
19 to state that he has been chosen.

20 THE CHAIRMAN: Take a case in B.C. where
21 there is no regional superintendent and no regional
22 supervisor.

23 THE WITNESS: Excuse me, sir, Eddy is
24 regional superintendent.

25 THE CHAIRMAN: But there is no double
26 function there as there is in Montreal.

27 THE WITNESS: Yes, I am afraid there is.
28 Captain Covington is regional supervisor.

29 THE CHAIRMAN: Oh, I didn't know that.

30 MR. LALONDE: I would like to have in



1 particular the appointment of Captain Lahaye in Quebec.
2 I know the Quebec district has some specific sections
3 in the Act and they may not be perfect examples, but
4 then it may be worthwhile to have Quebec and another
5 instance.

6 THE WITNESS: You can take Latter's
7 appointment in Halifax.

8 MR. JACQUES: Let's say the appointment of
9 a local supervisor. In this particular case, Captain
10 Lahaye, and the appointment of the regional supervisor
11 for the east coast.

12 THE CHAIRMAN: That is right.

13 THE WITNESS: We haven't a regional
14 superintendent for the east coast.

15 MR. JACQUES: You had one. He must have
16 been appointed?

17 THE WITNESS: Not for the east coast.

18 MR. JACQUES: I am sorry, for the St.
19 Lawrence region.

20 THE CHAIRMAN: According to the by-law in
21 B.C. there is no regional supervisor; not in the
22 by-law.

23 THE WITNESS: He is not mentioned in the
24 by-law in Montreal either. The regional superintendent
25 is not mentioned in any of the by-laws, is he?

26 THE CHAIRMAN: The superintendent is
27 mentioned in the B.C. by-law but not the supervisor.
28 I have not seen anywhere in the evidence that there
29 was a supervisor in B.C.

30 THE WITNESS: Maybe, my lord, some of the



1 by-laws have not caught up with the new situations.

2 MR. JACQUES: I am sorry, in the B.C.
3 by-laws as amended by P.C. 1961-1183 we find the
4 following definition of the word superintendent in
5 section 2, sub-section I:

6 "Superintendent means the
7 regional superintendent of pilots
8 or a person authorized to perform
9 the functions of the regional
10 superintendent."

11 THE CHAIRMAN: The name is not mentioned
12 anywhere. I do not think it was even mentioned
13 during the inquiry down there. Anyway, we will make a
14 note of that.

15 THE WITNESS: For clarification, what are
16 we being asked to get now?

17 MR. JACQUES: The appointment of Captain
18 Lahaye as a civil servant or whatever it is, and also
19 his appointment as local supervisor for the Quebec
20 district first. Secondly, the appointment of either
21 Gendron or Captain Catinus as a civil servant and
22 the appointment as regional superintendent of pilots
23 for the St. Lawrence region, whatever region it was.

24 DIRECT-EXAMINATION BY MR. JACQUES:

25 Q. Now, if we might move on to the next
26 question, question 8 could be answered I suggest
27 together with question 15. I believe both are
28 closely linked.

29 A. Did you say 15, Mr. Jacques?

30 Q. Yes, 8 and 15.



1 A. Well, I can answer them separately.
2 I will give you the 8 first.

3 Q. Thank you.

4 A. The explanation of the creation of
5 grades A, B and C pilots. With the abolition of the
6 special pilot system it was necessary to ensure that
7 a pilot ~~with relatively~~ little experience would not
8 be assigned to a large passenger ship just because
9 it happened to be his turn. So in March, 1959,
10 twenty-six pilots with experience in the handling of
11 large vessels were chosen to be grade A pilots who
12 would be entitled to pilot vessels over 7,000 tons
13 net.

14 Q. Excuse me, with respect to the tonnage,
15 how did you arrive at that particular figure? Why
16 not 6? Why not 8?

17 A. This was done by discussion between
18 the ship owners and the pilots and the Department.
19 The decision that was come to.

20 Q. It was felt a vessel ~~over~~ that
21 particular tonnage ---

22 A. Should have a specially chosen pilot.

23 Q. Thank you.

24 A. At the same time it was necessary
25 to appease agents of the ships of the medium size
26 ships, who had previously enjoyed the privilege of
27 special pilots, and to assure them that inexperienced
28 pilots would not be assigned to their ships.

29 For this purpose, two other grades, B and
30 C were formed. Grade C pilots were to be those with



1 less than three years experience as a licenced pilot,
2 and grade B pilots were the remainder of the pilots
3 who were not grade A.

4 Grade C pilots were limited to vessels not
5 over 2,000 tons for the first year after being licenced,
6 to vessels not over 3,000 tons for the second year,
7 and not over 4,000 tons for the third year.

8 At the end of the third year, if he has
9 given satisfaction, a grade C pilot may be upgraded to
10 grade B. There is a provision in the by-law for
11 downgrading from grade A to grade B, but then the
12 Pilots Committee objected to the possible downgrading
13 from grade B to grade C, except ~~at the pilots own~~
14 request. We feel that the grading system has worked
15 very well.

16 Q. What guides the choice or rather the
17 promotion from grade B to grade A?

18 A. This is the need for more grade A
19 pilots.

20 Q. But is it by order, ones from the top
21 of the B pilots will automatically become A pilots?

22 A. Not necessarily because some of the
23 pilots don't want to be grade A pilots.

24 Q. But there is no examination? There
25 is no test?

26 A. Yes.

27 Q. Nothing of the sort?

28 A. No. All these pilots, it must be
29 understood, have had a vast amount of experience.
30 Many of the grade B pilots have handled the larger



1 vessels.

2 Q. I realize that at the moment perhaps
3 you say all grade B pilots have handled larger
4 steamers, but in the future the situation will be
5 different. You will run into the following situation
6 where the grade B pilots would never have handled a
7 larger steamer.

8 A. In this case we would take it for
9 granted that the new grade A pilot would go with
10 other pilots until he and everybody else was
11 satisfied that he will have no trouble.

12 Q. But this is not a problem that was
13 discussed?

14 A. No.

15
16
17 --

18
19
20
21
22
23 --

24
25
26
27
28
29 --
30



1 Q. It was an eventuality which was too
2 far off?

3 A. This is correct.

4 Q. Could you answer question 15, please?

5 A. Well, the question here is ---

6 Q. Retrace the history of the abolition
7 of special pilots.

8 A. Evidence on the reasons for the
9 abolition of the special pilots system has been given
10 and appears on page 16422 of the English text and pages
11 following.

12 To sum up I might say, one, the system was
13 the cause of endless strife and jealousy within the
14 pilot body; two, it possibly could confuse the tour-de-
15 rôle or assignment lists preventing the orderly
16 distribution of the work; three, appointments were
17 made on the basis of recommendations made by
18 interested parties and not necessarily on experience;
19 four, special pilots were assigned to agencies, not
20 to individual ships and were used for all ships
21 served by those agencies even small ships that could
22 not be said to present any special pilotage difficulty;
23 and, five, special pilots received gratuities under
24 the guise of expenses contrary to the provisions of
25 section 372 of the Canada Shipping Act.

26 Q. A legal nicety.

27 A. For these reasons, the Department
28 supported the representations of a considerable
29 number of pilots who did not want the system to
30 continue. Agents wanted the system to continue and



1 the main reason advanced was that without it a large
2 passenger ship might have assigned to it from the
3 tour-de-rôle a pilot possibly just out of his
4 apprenticeship.

5 To obviate this possibility and to ensure
6 that the larger ships would have the most experienced
7 pilots the grading system, as explained in question 8,
8 was set up.

9 Q. Would you repeat the page to which you
10 referred to the Commission?

11 A. 16422.

12 Q. And who was giving evidence then; do
13 you recall?

14 A. Myself maybe. I am not sure.

15 COMMISSIONER SMITH: Captain, is there
16 fairly general satisfaction with the present gradation
17 set up as it is now compared to the old system?

18 THE WITNESS: I think that some of the
19 shipping people have never been reconciled to the
20 fact that they cannot have their own choice pilots
21 but apart from that it seems to be working well.

22 COMMISSIONER SMITH: That would be a
23 minority of the shipping interests, would it?

24 THE WITNESS: I am not in a position to
25 answer that. It would be the shipping interests
26 who wanted the special pilots.

27 THE CHAIRMAN: I think we had evidence
28 of the Shipping Federation through Captain Mathewson
29 to the effect that it was working satisfactorily.

30 MR. BRISSET: And that the Shipping



1 Federation supported the abolition of the special
2 pilots, although some agents might have preferred to
3 keep the system in force. As a body it did support
4 the abolition.

5 THE CHAIRMAN: Captain Slocombe has been in
6 the box for an hour and a half now. We will adjourn
7 for a few minutes.

8 MR. JACQUES: Thank you, my lord.

9 ----Short recess.

10
11 MR. MCGILLIVRAY: My lord, there is a
12 problem I would like to bring up. I think it should
13 be brought out at this time. The Department is not
14 going to be ready to go on on the 29th September,
15 as the roll calls for, with the information on the
16 Great Lakes and we would be asking that that portion
17 be postponed to a later time. As other parties
18 may have problems with their calendars I thought I
19 should bring it up at this time to see if we can
20 arrive at an appropriate date.

21 THE CHAIRMAN: Right now we are behind in
22 our schedule and we will not finish today what was
23 indicated for the 14th September to the 18th, and this
24 is going to continue next week. Also the Department
25 is not ready with the Great Lakes questions on that.
26 I was told that also maybe the question of inquiries
27 into casualties might not be ready.

28 MR. MCGILLIVRAY: It is a possibility we
29 will not be ready with that.

30 THE CHAIRMAN: If you can be ready, of



1 course, I would appreciate it.

2 So this will change the calendar. I have
3 discussed that a bit with the counsels, but we are not
4 going to make it firm right now. We proposed that
5 in October, rather than having the pleadings on the
6 19th October, we will have another week of hearings
7 that could be extended a little more if necessary.

8 Then I do not think it will be fair to
9 counsels to ask them to plead on the Great Lakes the
10 evidence on which just having been adduced at that
11 time. I think that in order to enable them to
12 prepare their pleadings all the pleadings should be
13 postponed for another month, which will mean that
14 the pleadings would come some time in November at a
15 suitable time for everybody.

16 So this is a proposal we might think over.
17 It is inconvenient to everyone, I know. As far as
18 I am concerned I have some inconvenience myself
19 because I have a very occupied calendar. So you will
20 think it over.

21 In any event there is the fact that we
22 cannot finish the evidence in this September session,
23 so we will have to postpone part of it to the 19th
24 October anyway. This is something which is definite.
25 There is only the question of the pleadings, as
26 to whether they should be postponed or not. This
27 we will have to know very soon because we will have
28 to send notices to the lawyers of other districts.

29 MR. LANGLOIS: My lord, I am wondering if
30 the fact that the Department of Transport will not be



1 ready to proceed with the different subjects mentioned
2 will change in any way the plans of the Commission
3 to have the Canadian Merchant Service Guild present
4 its brief on the 2nd October?

5 THE CHAIRMAN: No. All the other dates
6 are firm and will stay there. We would appreciate
7 it very much if the Guild would come before the 2nd
8 October.

9 MR. LANGLOIS: This is a point, my lord;
10 we certainly cannot come before.

11 THE CHAIRMAN: You cannot?

12 MR. LANGLOIS: It is impossible.

13 THE CHAIRMAN: And there is the National
14 Harbours Board that was mentioned also for that date.
15 I hope the Secretary will be able to have the
16 National Harbours Board before that, because this
17 means that if the Canadian Merchant Service Guild is
18 not able to finish during that day, then we will have
19 to postpone the rest of it in October, and I do not
20 like to postpone too much because you start
21 postponing and the first thing you know you never
22 finish.

23 MR. JACQUES: We are already behind
24 schedule.

25 THE CHAIRMAN: I know right now we are
26 behind schedule. We will have a busy week next
27 week and I think we will still have a busy week the
28 one after. But we are not going to continue a
29 fourth week in a row. We are going to adjourn on the
30 2nd anyway one way or the other.



1 MR. JACQUES: Q: I think, Captain, we
2 have reached question No. 9.

3 A. I hope there are not too many details
4 wanted on this question because I have got a general
5 answer here that the present apprenticeship system
6 was instituted as a result of long discussions between
7 the pilots' representatives and the Department. The
8 scheme is set out in the by-laws and this was
9 recommended in the first place, I think, by the
10 pilots and there were long discussions on it.

11 Q. But would you give us a little more
12 explanation of the reasons why certain requirements
13 were established, such as five trips to Three Rivers
14 and five trips to Sorel and 100 trips of which at
15 least 80 shall be from Montreal and Quebec and vice
16 versa? What guided you in establishing the number
17 of trips?

18 A. The discussions with the pilots'
19 representatives. This type of requirement had always
20 been in the apprenticeships schemes and these figures
21 were arrived at by discussion with the pilots'
22 committee.

23 Q. And what prompted you to adopt a
24 requirement, a course of training aboard a training
25 ship or attendance at the Merchants Marine Institute
26 of the Province of Quebec or other marine school?
27 What prompted you to enact these rules which did not
28 exist apparently before?

29 A. It was a suggestion of the pilots,
30 the pilots' committee.



1 Q. Since you adopted the suggestions I
2 guess you are in favour of the suggestions, but what
3 do you hope to achieve with these two new requirements?

4 A. A general improvement in the efficiency
5 of the pilots.

6 Q. Prior to that do you know in what
7 respect it was lacking in efficiency since it is
8 going to increase the efficiency?

9 A. Well, the pilots themselves felt that
10 the general standard of education should be raised.

11 Q. I see.

12 A. And this plan was, as I say, after
13 long discussions. It is practically, I think, as
14 the pilots recommended it. There might be small
15 points on which there was discussion and slight
16 compromises were made, but generally speaking this is
17 as suggested by the pilots.

18 Q. And there was no question at that time
19 that the then pilots who had served under the
20 previous system were not adequately prepared to perform
21 their duties while they were licensed?

22 A. Not under the circumstances at least
23 of the day, the time when they were appointed, and of
24 course their long experience in the meantime made them
25 competent. But with all the new equipment that is
26 on board ships nowadays and the larger ships -- if
27 size has anything to do with it -- the pilots felt
28 they wanted to raise their professional standard, if
29 you put it that way, and we had no reason to object
30 to this.



1 Q. Would that be also in keeping with
2 the trend of these days to raise educational
3 standards and raise educational levels?

4 A. This is correct.

5 MR. LALONDE: Do you remember that Mr.
6 Jean-Marie Martin of the Faculty of Social Science
7 took an active part in those discussions?

8 THE WITNESS: Yes, I remember this very
9 well.

10 THE CHAIRMAN: Captain Slocombe, when you
11 gave evidence with regard to the source of pilot
12 material in British Columbia you said that the coastal
13 masters were there and it was the best way to
14 recruit the pilots for British Columbia. Why do you
15 have a different system here on the St. Lawrence?
16 Why not recruit them from, let us say, coastal
17 masters or river masters?

18 THE WITNESS: There is not the same
19 situation here in the St. Lawrence as there is on the
20 British Columbia coast.

21 THE CHAIRMAN: Yes. I would like to know
22 the difference.

23 THE WITNESS: I am speaking of the St.
24 Lawrence below Montreal. There is not the same source
25 of supply. It might be that people would feel that
26 it should be possible to enter the pilotage service
27 from experienced masters who would not necessarily
28 have as long an apprenticeship, but this is a matter
29 of opinion and the pilots themselves have enjoyed
30 this closed shop apprenticeship scheme -- you might



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir-ex
Jacques

18257

1 call it that, or closed apprenticeship scheme -- for
2 a great many years. We have no reason to try to
3 change it unless it became quite evident that this
4 apprenticeship scheme was not developing or not
5 producing pilots with the efficiency that they should
6 have.

7 I may say, my lord, that we have heard
8 maybe not more than rumours -- you might say just in
9 conversations -- that some of the pilots themselves
10 have some little doubt as to the efficacy of the
11 present scheme, but I would not try to give evidence
12 on that.

13
14 --

15
16
17
18 --

19
20
21
22
23 --



1 THE CHAIRMAN: I see. In British Columbia
2 it was stressed that because the coast line was so
3 long that the coastal masters on the tugs and tankers
4 were almost the only ones conversant with that and
5 therefore the pilots were chosen from them and were
6 becoming the experts, among the most qualified people
7 over there, and it was really the best way to make a
8 selection.

9 THE WITNESS: This is so, my lord. A
10 similar situation we have felt has existed in the St.
11 Lawrence above Montreal where they had the lakers
12 performing their own pilotage so often there was a
13 source of supply there.

14 THE CHAIRMAN: Why the difference below
15 Montreal?

16 THE WITNESS: It has happened even the
17 lakers have not been required, the lake masters have
18 not been required to do their own piloting below
19 Montreal. I will put it this way: Pressure to
20 permit them to do their own piloting was not so strong
21 there because they had already been many many hours
22 coming down the river to Montreal from Lake Ontario
23 and they needed to sleep so it has been the practice,
24 even before it was compulsory -- I mean before
25 compulsory payment was established there for lakers --
26 that they did generally employ pilots.

27 THE CHAIRMAN: I see. Thank you.

28 MR. BRISSET: Captain, from a policy
29 standpoint does your department consider that the
30 shipping industry should or should not participate in



1 the establishment of apprenticeship schemes?

2 THE WITNESS: I don't know how to answer
3 that question, Mr. Brisset. This is a policy matter
4 which perhaps I should not answer. There would be
5 differences of opinion among various officers and I
6 certainly would not try to give the concensus.

7 THE CHAIRMAN: In other words, is there a
8 firm policy against or for it?

9 THE WITNESS: I might say that there is a
10 sympathy towards that point of view but that is all I
11 can say.

12 THE CHAIRMAN: No firm policy.

13 MR. BRISSET: You were asked if your evidence
14 about the improvements being brought in the apprenticeship
15 scheme in the St. Lawrence River over the last few
16 years. Captain, would you not agree that it would
17 have been fairer to say that most of the improvements
18 were originally suggested by the shipping industry and
19 eventually accepted by the Department because the
20 pilots agreed to it.

21 THE WITNESS: I don't know whether I can
22 say that or not. Certainly we appreciate that the
23 shipping industry is anxious to raise the standards
24 but as far as a detailed scheme was concerned this
25 came from the pilots themselves; but the general
26 desirability, shall we say, of improving the standard
27 was obviously often mooted by the shipping people.

28 DIRECT-EXAMINATION BY MR. JACQUES:

29 Q. You said there were several meetings
30 and discussions on the new system. Are you able to



1 tell us when you received first the suggestions of the
2 pilots with respect to the system as it now is.

3 A. This means going back in the file, Mr.
4 Jacques.

5 Q. I fully expected that.

6 THE CHAIRMAN: It may be answered later on.

7 THE WITNESS: We can give you that after
8 lunch.

9 MR. JACQUES, Q: At the same time I would
10 like to know when you receive the first request and
11 brief summary of what went on, how long were the
12 discussions; were there any amendments to the original
13 product; who suggested the amendments and things like
14 that.

15 A. Mr. Jacques, surely you are not going
16 to ask for every little compromise. I have said this
17 was a long discussion in which ideas were passed back
18 and forth and it will take a long time to enumerate
19 all the little changes that were made.

20 Q. Oh, I am not interested in little
21 changes but I am interested in knowing who first
22 originated the idea and how was the idea put down.

23 A. I have said that it was originated by
24 the pilots.

25 Q. Exactly as it is now in the by-law?

26 A. Not exactly, no, otherwise there would
27 not have been any need for the discussions in between
28 but the original suggestion came from them pretty
29 much in the same type as it is now.

30 Q. I would like to know what the original



1 suggestion was and when it was presented to the
2 Department and how long negotiations were carried out.
3 It may have been a month, it may have been ten years.
4 I don't know.

5 A. We can tell you this this afternoon
6 probably.

7 Q. Now question No. 10 -- apparently there
8 was a study made by one of your officers on anticipated
9 needs of pilot replacements. Would you have that
10 study?

11 A. This, my lord, was merely a working
12 sheet. It was taken down by one of our officers in
13 discussions on the need for new apprentices. For
14 what it is worth there it is. This was on the file
15 but this was only a working sheet, as I say, giving
16 an idea of the possible need in the years to come.
17 It may be of interest to the Commission.

18 Q. Are you able to explain this document?

19 A. The headings are self-explanatory
20 except possibly the term "additional pilots on the
21 role". This I had to ask myself what that was and it
22 stood for the number of pilots that were put on the
23 role during that year.

24 Q. Would that document take into account
25 the increase in traffic?

26 A. No, this is actual fact. This was
27 actual experience and the wastage of pilots, as you
28 might say, retirements and so on.

29 Q. Surely to project the need for 1975
30 you must have taken into account the increase or



1 decrease in traffic?

2 A. This only shows what would be the
3 effect on normal replacements.

4 Q. It is just age, that is all?

5 A. That is right. This was just a basic
6 work sheet.

7 MR. LALONDE: The document doesn't appear
8 to show even death before normal retirement age, does
9 it?

10 THE WITNESS: I don't think so. There may
11 be a column there giving possible -- on the experience
12 it shows that.

13 MR. JACQUES, Q: Is that for Canada as a
14 whole or any district in particular?

15 A. This was Montreal district only.

16 Q. And the figures are the actual number
17 of pilots? They are not index figures, indices?

18 A. They are the actual number of
19 retirements, or whatever it was. As I say this
20 document has no special significance, just something
21 used as a working sheet in discussions. This, of
22 course, was for the discussion with the pilots
23 committee, my lord, and I don't know whether the pilots
24 committee made any amendments or anything to it,
25 to the figures there.

26 MR. JACQUES: Would the Commission be
27 interested in having the document filed?

28 THE CHAIRMAN: Yes.

29 MR. JACQUES: This will be Exhibit No.
30 1332.



1 MR. LALONDE: Obviously, my lord, I am
2 sure the Commission will take it as is.

3 THE CHAIRMAN: Just as a working paper, a
4 rough working paper.

5 MR. LALONDE: Yes. There are several
6 shortcomings apparent in the calculation of the figures
7 and the figures don't mean much.

8 THE WITNESS: This I agree. It may have
9 been amended in the discussion down there. It is just
10 a piece of paper we found in the file and I would not
11 say that they are even correct. It may be that the
12 pilots committee in discussion pointed out the
13 discrepancies there might have been.

14 MR. JACQUES: We don't know how you arrived
15 at these figures.

16 THE WITNESS: Really I don't think the
17 sheet has any significance whatsoever.

18 THE CHAIRMAN: We will strike it out.

19 MR. JACQUES, Q: The next question is:

20 "Give details of the case
21 where the issuance of a higher
22 licence was withheld because
23 pilot had been involved in an
24 accident."

25 A. The M.V. Beachmore grounded in Montreal
26 harbour on August 5th, 1961. As the result of an
27 inquiry at which the pilot was represented by counsel
28 it was concluded that he had failed to exercise due
29 care and diligence for the safe conduct of the ship.
30 It was directed that he continue to be restricted to



1 a ship not more than 2,000 tons for an extra two years
2 before being up-graded to the next level of grade C.

3 My lord, I have a copy of the proceedings
4 of the inquiry which was held under section 568 and
5 section 579 of the Act which I would be glad to file.

6 MR. JACQUES: As Exhibit 1332.

7
8 ---EXHIBIT NO. 1332: Proceedings of inquiry re
grounding of M.V. Beachmore.

9 MR. JACQUES: This is on a confidential
10 basis because the pilot's name is mentioned.

11 THE WITNESS: This was a 579 inquiry which
12 was open to anybody.

13 THE CHAIRMAN: Therefore it is not necessary
14 it be confidential.

15 MR. JACQUES: The title of the exhibit is
16 Report of Inquiry under Section 568 and Section 579 of
17 the Canada Shipping Act into the Conduct of a Pilot
18 with Respect to the Grounding of the M.V. Beachmore
19 on August 5th, 1961.

20 Under what section of the by-law then in
21 force did you withhold the promotion?

22 A. Well, I think as I said the grading
23 system provides for promotion from grade C to grade B
24 upon satisfactory performance.

25 Q. Would you point out the section,
26 please?

27 A. "The Authority may classify a river
28 pilot as grade B river pilot if he has served
29 satisfactorily at least three years as grade C river
30 pilot". You will notice it is permissive -- he may.



1 COMMISSIONER SMITH: As I understand it two years
2 have expired. Has he been able to receive his
3 promotion?

4 THE WITNESS: Yes.

5 MR. JACQUES, Q: And was that grounding of
6 the Beachmore the only incident where negligence had
7 been established against that pilot. Is that the
8 only case against him?

9 A. I don't know. We would have to
10 read the case. No, the recommendation at the end says:

11 "This is the second time

12 that the pilot has appeared before
13 me on a charge of this nature and
14 I am beginning to have some doubts
15 as to his fitness for this work.
16 Obviously there must be innumerable
17 occasions when he completes his
18 assignment without difficulty but
19 he displays certain weaknesses
20 which are a little disturbing."

21 It is quite a long judgment, my lord, quite interesting.

22 Q. Now question No. 12: Give details
23 of the case where a pilot was ordered to perform certain
24 jobs instead of being fined.

25 A. I don't know whether you would say
26 "instead of being fined" but certain jobs as a result
27 of a casualty, shall we put it that? On October 11th,
28 1962 the M.F. Inga Bastian was to be berthed inside
29 Victoria pier at Montreal and she struck the corner
30 of the pier head on. From the pilots own report



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Slocombe, dir-ex
Jacques

18266

1 and the inquiry conducted by Captain Catinus it was
2 evident that there had been a serious error in
3 judgment and that the pilot required more practice
4 in counteracting the current in the vicinity of
5 Victoria pier.

6 Q. How long had he been a pilot then?

7
8 --

9
10
11
12
13
14
15
16
17
18 --

19
20
21
22
23
24
25
26
27
28 --
29
30



1 A. We will be able to give you that
2 figure when he became a pilot.

3 Q. Montreal harbour pilot or Montreal
4 river pilot?

5 A. River pilot.

6 MR. LALONDE: The information may come
7 later but I am instructed it was only a few months.

8 MR. JACQUES: Was he a river pilot?

9 MR. LALONDE: A river pilot.

10 THE WITNESS: Accordingly the supervisor
11 was instructed to cooperate with the pilot in
12 arranging for him to be on board ships ~~either as pilot~~
13 or as observer docking or undocking in this vicinity.
14 In order to ensure ~~the cooperation~~ of the pilot, he
15 was informed that he would not be upgraded from C-2
16 to C-3 until he had taken part in 25 such manoeuvres.

17 The pilot complied with this requirement
18 before the date on which he would have been upgraded,
19 and he was upgraded on the appropriate date.

20 MR. JACQUES, Q: That seemed rather a
21 novel way of dealing with pilots; is that correct?

22 A. Not novel. It would certainly have
23 been quite common in B.C.

24 Q. Was it?

25 A. Oh, yes. There they ensure that any
26 pilot who is doubtful or is shown to be doubtful about
27 any particular manoeuvre, he goes with other pilots
28 and concentrates on that until he is sure of himself.

29 Q. Your department has not seen fit to
30 enact rules in that respect in order to guide local



1 supervisors and the regional superintendent? It seems
2 to me a very good idea, and I wonder just why it was
3 not established as a permanent institution.

4 A. Well, it is understood certainly, but
5 it has been much more difficult to do this in the
6 Montreal district or Quebec district.

7 Q. Why?

8 A. Because the system of tour-de-role
9 and so on, and the fact that each pilot is ostensibly
10 paid what he earns.

11 Q. But in B.C. you also have a tour-de-role?

12 A. But in B.C. we have the pooling system
13 there. What a pilot actually does does not affect
14 his share in the pool unless he is absent, of course.
15 Absent without pay you might call it. But this we
16 feel is provided for. This is the advantage of
17 this grading system that there is something.

18 Q. But the pilot in question could have
19 said "no, I am not going to accept this training", and
20 you could have done nothing about that except to
21 suspend him?

22 A. The by-law does say, Mr. Jacques, that
23 pilots and apprentices as far as that goes shall
24 accept assignment by the supervisor when and where
25 the supervisor directs.

26 Q. But surely this does not mean that
27 the supervisor can send the pilot in training with
28 another pilot.

29 A. I don't see why not, and I don't see
30 why any pilot, if he is sincere, would object to it.



1 After all the alternative is cancel his licence.

2 Q. Yes. He could have chosen to be
3 treated in accordance with the specifications of the
4 by-law, and you could not have forced him to do his
5 25 trips or whatever it is.

6 A. This we would have to find, that he
7 was not fit to perform this manoeuvre, which he should
8 have been fit to perform as a pilot, and he would have
9 had to be suspended.

10 THE CHAIRMAN: It appears that this is in
11 a way provided for. In B.C. it is provided because
12 of this power of the superintendent to dispatch; on
13 the tour-de-role possibly as much as possible, but
14 not strictly tour-de-role basis. The superintendent
15 has some discretion, and also it is the policy of the
16 pilots' committee to recommend to the superintendent
17 not to dispatch those men except under those
18 circumstances. This also is established in B.C.

19 THE WITNESS: This is correct, my lord, and
20 we feel in the Montreal district there is the same
21 power on the part of the supervisor.

22 MR. LALONDE: It is not that strict
23 according to the by-law either. Section 10 of
24 paragraph 2 says the pilots shall normally be
25 assigned for duty in conformity with the practice that
26 may be in force for the equalization of trips.

27 THE WITNESS: This is correct.

28 MR. LALONDE: And the previous paragraph
29 says that the pilots shall undertake pilotage duty
30 when and where required by the supervisor and shall



1 not pilot any vessel except as directed by the
2 supervisor.

3 MR. JACQUES: "Undertake pilotage duty",
4 and the pilot who is sent on board ship in the company
5 of another pilot just to learn is not performing
6 pilotage duty.

7 MR. LALONDE: The only thing I want to
8 raise here was in connection with his lorship's
9 statement.

10 THE CHAIRMAN: Yes, but there is a
11 difference in B.C. Here they are paid for every
12 assignment while in B.C. they are paid for being
13 available.

14 MR. JACQUES, Q: This of course would make
15 a difference in practice, but in theory the wording
16 of the by-laws is similar in B.C. in that respect?

17 A. This is correct. And we feel the
18 supervisor does have this power in Montreal. I certainly
19 feel this is splitting hairs, Mr. Jacques.

20 Q. I beg to differ.

21 A. Well, this is again a legal nicety.

22 THE CHAIRMAN: So let it go at that.

23 CROSS-EXAMINATION BY MR. LALONDE:

24 Q. Isn't it a fact, Captain Slocombe, this
25 was not the only instance on the river where such a
26 penalty was imposed? There have been at least one
27 previous case or two in the Montreal river district?

28 A. I would not contradict this. I just
29 don't remember at the moment.

30 MR. MCGILLIVRAY: You would not contradict



1 the use of the term "penalty"? It was not a penalty.

2 THE WITNESS: No, this is not a penalty.

3 MR. MCGILLIVRAY: There was no infraction.

4 MR. LALONDE, Q: Additional training or
5 call it what you want.

6 A. I submit, my lord, this is for the
7 benefit of the pilot as much as anybody else.

8 Q. Yes.

9 A. I am sure it would be well agreed with
10 by the responsible pilots.

11 Q. And that is my next question. I think
12 you said this was easier on the west coast than on
13 the St. Lawrence River. In fact, have you ever had
14 any objection to that principle from the pilots
15 committee on the St. Lawrence River?

16 A. No, not from the pilots committees,
17 no.

18 MR. LANGLOIS: Is it also a fact, Captain
19 Slocombe, in this case the pilot was not found to
20 be negligent or anything, but rather this was an
21 error in judgment and there was no question of penalty
22 in this case?

23 THE WITNESS: This also is correct. I now
24 have the date of this pilot's first licence. He was
25 licenced as a grade C pilot of a vessel limited to
26 1,500 tons net registered tonnage, and valid from the
27 11th day of October, 1961.

28 MR. JACQUES: And the accident
29 occurred on what date?

30 MR. LALONDE: The 11th of October, 1962.



1 THE WITNESS: This was valid to the 31st
2 of December, 1961 following the practice that the
3 first licence is always a temporary licence. Now
4 there may be a correction here.

5 MR. JACQUES: Q: Anyway, he was first
6 licenced in October, 1961. To straighten things out,
7 the accident to which we referred a moment ago
8 occurred on October 11, 1962, and the pilot's
9 licence according to the record of the Department
10 had been valid from the 11th day of October, 1961.
11 That was the first licence issued to him. It was
12 issued then for a period of a few months, and we
13 are trying to find out when it was renewed.

14 A. The one that was actually valid at
15 the time of the casualty was valid from the 19th day
16 of March, 1962 until the 10th day of October, 1962.

17 Q. But in any case he had been a pilot
18 a year before the accident occurred?

19 A. That is correct.

20 Q. Would your file show how long an
21 apprenticeship that gentleman had served prior to
22 obtaining his licence in October, 1961?

23 A. He received his apprentice pilot's
24 licence on July 20, 1956. This is the date on which
25 it was sent to Montreal.

26 Q. So would you say that he had been an
27 apprentice roughly five years?

28 A. This is correct.

29 Q. Now, on question No. 13 ---

30 A. Why was the control button removed from



1 the teletype in Montreal? Well, this control button
2 is a cut-off switch by which one can break off all
3 traffic on the circuit at any time in case an urgent
4 safety message has to be sent out. These buttons
5 were on all the stations but they apparently were
6 being wrongly used. The original order for their
7 removal ---

8 Q. You should have removed the operator
9 and not the button.

10 A. The original order for their removal
11 did not include the Montreal machines, but through
12 some misunderstanding they were removed there as well.
13 They were reinstalled when the situation was brought
14 to the attention of headquarters.

15 MR. LALONDE: Is that when it was brought
16 before the Commission?

17 THE WITNESS: I don't know. Prior to that
18 I am told. It should have been brought to their
19 attention before, but it wasn't.

20 Q. Question 14, why are vessels allowed
21 to clear when pilotage dues are not paid?

22 A. Well, while section 344 of the Canada
23 Shipping Act provides the means by which doubtful
24 payers may be forced to pay pilotage dues, it would
25 be quite impractical to invoke these powers for all
26 ships in a district like Montreal.

27 The procedure of delivery of the source
28 form signed by the master and the pilot, the
29 complication of the dues payable, and the delivery
30 of the account to the agent all take time. Further,



1 there is the outward pilots to be concerned with.

2 Section 344 does not make any reference to
3 outward pilotage. You can hardly claim pilotage
4 before it has been performed, so is it implied that
5 the clearance must be withheld until pilotage is paid
6 in advance? We don't know.

7 Q. It could be, but what you say is very
8 interesting on the applicability or the opportunity of
9 using the powers mentioned in section 344.

10 A. In any case, strict enforcement of
11 section 344 would mean increased difficulties and
12 extra work in the pilotage offices, customs offices
13 and in the steamship agency office.

14 THE CHAIRMAN: This is very interesting, what
15 you are saying about outward pilotage. We are
16 wondering whether there should be a section in the Act
17 regarding compulsory payment for all ships, but we
18 can raise that later.

19 THE WITNESS: We would invoke this if we
20 didn't receive payment for the outward pilotage as
21 well as the rest, and we had doubts about getting it.
22 We would hold the ship next time she appeared at a
23 Canadian port, and we have used it for this purpose.
24 It is there for the rare occasions when it is needed.

25 We do it by having the customs officers
26 all over the country watch out for a particular ship,
27 and if this ship appears, to communicate with us
28 immediately to see whether the pilotage dues have
29 been paid.

30



1 CROSS-EXAMINATION BY MR. LALONDE:

2 Q. Aside from the problem of outward
3 pilotage, do you realize section 344 does not give
4 any option? It is a form of obligation. 344,
5 paragraph 1 says:

6 "No customs officer shall
7 grant a clearance to any ship
8 liable to pilotage dues at any
9 port in Canada, where there is a
10 duly constituted pilotage
11 authority and at which pilotage
12 dues are payable, until there
13 has been produced to such
14 customs officer a certificate
15 from the pilotage authority of
16 the district that all pilotage
17 dues in respect of such ship
18 have been paid or settled for to
19 the satisfaction of such
20 authority."

21 The obligation would appear to be very
22 strict. I understand the reason you have given for
23 not really applying it, but maybe it would have been
24 better to amend the Act.

25 A. Well, this is not so easy, of course,
26 as one knows. It has never been considered
27 necessary to amend it. An amendment might be appropriate
28 to make it so that it could be used when desired or
29 when necessary.

30 Q. In effect what you have now, you have a



1 provision establishing a very clear strict obligation
2 which is not followed at all.

3 A. Yes. I believe there are on some
4 statute books still obligations to walk before an
5 automobile with a red flag.

6 Q. This is not the point.

7 MR. JACQUES: And there may be liability
8 on the part of the customs officer who grants a
9 licence in the face of a clear cut obligation imposed
10 on him by law.

11 MR. LALONDE: As a matter of fact, I
12 remember having given consideration to suing the
13 Department in such instances in the past.

14 MR. JACQUES: He would be a servant of the
15 crown acting within the scope of his functions and
16 disregarding the law?

17 THE WITNESS: That is right.

18 MR. MCGILLIVRAY: It is not a question for
19 the Pilotage Authority.

20 MR. JACQUES: It has been established that
21 Captain Slocombe in the Pilotage Authority is non-
22 existent. There is no by-law covering him!

23 THE CHAIRMAN: The Pilotage Authority
24 could have advisors just in an advisory capacity
25 with a delegation of power.

26 MR. MCGILLIVRAY: Are you aware whether the
27 customs officers do get certificates from the Pilotage
28 Authority ever in connection with this section?

29 THE WITNESS: Not in the Montreal or Quebec
30 district I am quite sure. This is as a result of long



1 standing practice.

2 THE CHAIRMAN: While we are on the subject,
3 we notice on the Commission report, 1963, for British
4 Columbia, there is an item of pilotage dues collected
5 for the Quebec and Montreal pilots.

6 THE WITNESS: This would be a case in point
7 I imagine.

8 THE CHAIRMAN: Therefore I suppose that
9 ship was in British Columbia. We are making inquiries
10 to find out exactly what it is, but I suppose the
11 ship went to British Columbia and there the Authority,
12 knowing the ship was there, asked that it be detained
13 I suppose, and this would be collected.

14 THE WITNESS: This is correct.

15 THE CHAIRMAN: We will find this out anyway.
16 It appears that British Columbia collected about
17 \$1,100.00 for Quebec and Montreal last year.

18 DIRECT-EXAMINATION BY MR. JACQUES:

19 Q. Question 15 has already been answered,
20 and question 16, any requests from pilots or thoughts
21 on the part of the Pilotage Authority to allow
22 financial compensation to a pilot taken off the tour-de-
23 role for alleged offence and later on not found
24 guilty of same.

25 A. No, we have no request as far as I
26 recall or thoughts on that point. The pilot is only
27 taken off the tour-de-role if the supervisor is of the
28 opinion he is not fit to pilot a ship, except as
29 provided under the by-law in the case of drunkenness
30 as we said just now, and this would be in the public



1 interest.

2 Q. Remove the pilot from the tour-de-rôle
3 in cases of drunkenness or suspected use of narcotic
4 drugs?

5 A. This is included in the by-law.

6 Q. And these are the only two cases?

7 THE CHAIRMAN: No, there is another one --
8 when he thinks he is not mentally or physically fit.
9 There is another section on that.

10 THE WITNESS: Yes, but if he was sure that
11 the pilot was not fit for any reason mental or
12 physical -- he would have to be, of course; there
13 are no other reasons -- but he would act then in the
14 public interest.

15 MR. JACQUES, Q: In the case of the
16 ~~LEECLIFFE~~ HALL the pilot was taken off the tour-de-rôle,
17 was he?

18 A. Yes. But this is under 555 of the
19 Act. It precedes a formal investigation.

20 Q. I am sorry, 555 is the suspension of
21 licences and his licence is not suspended until he
22 is notified. He must be on the tour-de-rôle unless
23 you can find provision in the by-law to remove him
24 from the tour-de-rôle.

25 A. You know, if we tried to do all these
26 things we would grind to a stop.

27 Q. No, you might move faster.

28 A. I am sure you are finding out flaws
29 in the law now.

30 MR. JACQUES: The by-laws.



1 THE CHAIRMAN: That is all right; that is
2 what we want to know. If you are hampered by the
3 law, we have to know that.

4 THE WITNESS: Well, sir, if the suspension
5 means the signature of the Minister of Transport as
6 the pilotage authority it might be necessary to allow
7 that pilot to go on, because he might not be
8 available. Perhaps the Deputy Minister might not be
9 available. We take it that it is not necessary in
10 such a case to formally suspend his licence. We
11 merely tell him that he is suspended and take him off
12 the tour-de-rôle.

13 THE CHAIRMAN: I think that Section 555(2)
14 says that the officer in charge of the preliminary
15 inquiry is going to suspend.

16 MR. JACQUES: And the licence, not from the
17 tour-de-rôle so that the pilotage authority is not
18 hemmed in by the law.

19 THE CHAIRMAN: The term of suspension shall
20 not exceed a period of three days unless the Minister
21 notifies the pilot within that time that a formal
22 investigation will be held.

23 So we will come to that when we come to the
24 question of inquiries and investigations.

25 MR. JACQUES, Q: The pilotage authority is
26 hemmed in by the by-laws it drafted itself?

27 A. With the understanding that they would
28 be handled practically.

29 Q. With complete disregard for their
30 text?



1 A. As I said in the witness box before,
2 pilotage is something that should not be hemmed in by
3 detailed laws. It is a practical operation which does
4 not lend itself to such niceties.

5 THE CHAIRMAN: Then the terms of the law
6 should be general enough to provide for it.

7 THE WITNESS: This is it, my lord.

8 THE CHAIRMAN: So it is not now, is it?

9 THE WITNESS: Well, we have been told now
10 that it is not, my lord. It has worked so far.

11 MR. MCGILLIVRAY: Captain Slocombe is not
12 necessarily expressing the opinion of the pilotage
13 authority in what he has just said.

14 THE CHAIRMAN: No, just his feelings.

15 MR. MCGILLIVRAY: And from his experience
16 with lawyers.

17 MR. JACQUES: It seems to me his attention
18 was repeatedly drawn to the Bill of Rights and other
19 provisions of the law.

20 THE CHAIRMAN: Which up to now have never
21 been upheld by any court of law.

22 MR. JACQUES: Oh, my lord, I would not agree
23 with that statement; I would not say "upheld" --
24 what has not applied.

25 THE CHAIRMAN: Well, I do not know.

26 MR. JACQUES, Q: Question 17 with respect
27 to Cap St. Michel radio station.

28 A. The question is, is it now in operation,
29 ~~operation, 18280~~

30 Q. Yes.



1 A. No. A new receiver site has been put
2 inot operation at St. Isidore and tests show that the
3 area is well covered so that a new station at Cap
4 St. Michel is not required. This is the opinion of
5 Tele-Communications.

6 Q. Tele-Com? Question 18 -- would you
7 have any comments to add to those already made with
8 respect to the Quebec district on the same problem;
9 ~~that is~~, filling out source forms?

10 A. Yes. I think it is pretty well covered.
11 If it is of interest, there are three letters here
12 between the district supervisor at Montreal and Captain
13 Jones. It sets it out quite well.

14 Q. Now question 19 -- detailed history of
15 splitting of district into two sections at Three
16 Rivers?

17 A. This is the history of changing pilots
18 at Three Rivers. Previous to 1948 there was no
19 changing of pilots at Three Rivers. The ships in
20 those days were generally slower than today. The
21 trip from Montreal to Quebec was quite long and the
22 upbound trip from Quebec to Montreal was longer. It
23 occasionally happened that a pilot was on duty as long
24 as twenty to twenty-four hours.

25 At the pilots' annual meeting in January,
26 1948 a group of pilots raised the question and a
27 committee was formed to draw up a resolution recommending
28 the establishment of a station at Three Rivers. The
29 Department made a study of the time taken on trips and
30 the result was as follows. Over a period of 104 days



1 from the opening of navigation until the end of July --
2 this must have been in 1948 -- the average time for
3 all the 77 pilots for all trips was 12½ hours' steaming
4 time.

5 Over 50 per cent of these trips were from
6 Montreal to Quebec or vice versa and the average for
7 these trips was 14 hours and 20 minutes. However,
8 the average time spent by the pilot, who had been the
9 prime mover in the complaint, on trips between Montreal
10 and Quebec was 18½ hours, or 4 hours more per trip than
11 the overall average.

12 The cause of this was the special pilots
13 system. The special pilots, in addition to having
14 extra money and prestige had the fastest ships and
15 so worked shorter hours.

16 The Department in the face of these figures
17 could not help being sympathetic with the proposal,
18 but we insisted that we should have the proposal from
19 the pilots' committee. Eventually in June, 1949 we
20 received an official request from the committee that
21 on a trial basis pilots on slow ships be changed at
22 Three Rivers. It was agreed by the pilots that the
23 change would not affect the pilots, that it would not
24 cost the ship that changed pilots any more for the
25 trip from Montreal to Quebec or vice versa than if
26 the same pilot continued right through.

27 Q. What about the boat charge; who paid
28 that?

29 A. Except for the cost of the boat to
30 board and disembark the pilot, if a boat were used.



1 The Department approved this and advised the
2 Shipping Federation and the Dominion Marine Association.
3 Both these organizations raised objections and the
4 institution of the change was postponed for two weeks.
5 In the meantime the Department arranged for a place
6 where ships might dock to change pilots if they did
7 not want to pay for a boat and for a place where pilots
8 could wait.

9 When the new practice was put into effect
10 it was decided that it should be for lake vessels and
11 ocean vessels of comparable speed -- that is, a maximum
12 of eight knots. However, the special pilots said that
13 they did not want to change because if they did they
14 would lose their bonus.

15 Over the succeeding months and in the
16 following season 1950 there was continual discussion,
17 shall I say, between the Shipping Federation and the
18 Department about which ships should or should not
19 change pilots. I was chairman of a meeting in Montreal
20 on June 19th, 1950 attended by the Montreal pilots'
21 committee and representatives of the Shipping
22 Federation. If the Commission would like to see them
23 I happen to have the minutes of this meeting. It
24 indicates the role that the Department played in the
25 negotiations.

26 As a result of the meeting a rule was
27 instituted that if any ocean ship took more than seven
28 hours from Montreal to Three Rivers or from Quebec to
29 Three Rivers the pilot would have the option of being
30 relieved. This rule gave rise to certain difficulties



1 among the pilots, some of whom insisted on changing
2 even if the ship had reached Three Rivers in less than
3 seven hours. On the other hand some of the special
4 pilots also objected to the rule. The credit for
5 trips in the pilots' own arrangement for the division
6 of money was involved here -- and I would not attempt
7 to explain this.

8 The difficulties went on for some years and
9 in 1956 the rule was made that all ships should change
10 pilots at Three Rivers. In May, 1957 the boarding
11 station was moved from the town of Three Rivers, where
12 there were certain difficulties attendant on
13 manoeuvring to change pilots, to Point des Ormes $2\frac{1}{4}$
14 miles up river. Later in that year the Shipping
15 Federation urged the Department to build a proper wharf
16 at Point des Ormes. This was done eventually and a
17 building was also constructed to house the pilots
18 while waiting for ships. That is it.

19 Q. Thank you. Since these policies have
20 been brought into effect has there been any accident,
21 serious or light, which could be said to be the result
22 of the fact that the pilots were now changing at
23 Three Rivers, such as, well, the vessel has to slow
24 down and she might have more difficulty in meeting
25 another ship in that respect?

26 A. As I recall, no.

27 MR. JACQUES: Thank you.

28 COMMISSIONER SMITH: I was going to ask
29 the witness if in his opinion he thinks no change
30 should be made?



1 THE WITNESS: You mean that the pilots
2 should continue right through, Mr. Smith?

3 COMMISSIONER SMITH: No -- no change in the
4 present system?

5 THE WITNESS: No, I feel the present system is
6 working very well.

7 MR. LALONDE: As regards the actual site
8 of the pilotage station at Three Rivers is the
9 Department considering any change in the situation of
10 the pilotage station because of the construction of
11 the Three Rivers bridge?

12 THE WITNESS: Yes, this is under consideration.
13 We have had people talking to the pilots' committee
14 about it.

15 MR. LALONDE: Has the Department reached
16 any decision whether it should be above the bridge or
17 below the bridge?

18 THE WITNESS: The decision has not been made.
19 It stays where it is for the moment.

20 MR. LALONDE: But you have not reached any
21 decision as to whether there will be a change in the
22 site and where it will be; is that correct?

23 THE WITNESS: No, correct. We are discussing
24 it with the pilots' committee and we are open to
25 suggestions.

26 MR. LALONDE: I also have a question, if I
27 may, about manning the station at Three Rivers. Have
28 you been aware that there was a substantial shortage
29 of men, dispatchers, at Three Rivers this year?

30 THE WITNESS: I would have to consult on



1 that.

2 THE CHAIRMAN: You will get the information
3 during the recess?

4 MR. LALONDE: If it may help you, I am
5 instructed that both the pilots and the Shipping
6 Federation complained about shortage of men at the
7 station . I am also instructed that at least on one
8 occasion this summer two pilots had to go and help --
9 do some dispatching themselves -- because the men
10 there could not cope with the job.

11 THE CHAIRMAN: So would you check that and
12 report later on that?

13 THE WITNESS: Yes, my lord.

14 THE CHAIRMAN: We still have a few minutes
15 before lunch.

16 In regard to that 7-hour rule there that
17 was considered before, was that factor considered
18 generally for pilotage in all districts in Canada or
19 only for that stretch between Montreal and Quebec?
20 In other words was it only a condition of time or a
21 combination of time and stress -- an especial stress
22 on account of that stretch of water?

23 THE WITNESS: It was just the circumstances
24 of that district that were considered, my lord, not
25 comparing it with other places. The 7 hours was a
26 period of time which represented a dividing line, as
27 you might say, between certain classes of ships.

28 THE CHAIRMAN: I see, but I am wondering
29 whether you could say seven hours' maximum time that a
30 pilot should be on duty anywhere -- in British Columbia



1 or the lower St. Lawrence or ---

2 THE WITNESS: No, we would not say this, my
3 lord.

4 THE CHAIRMAN: So therefore consideration
5 was given to the particularities of piloting in that
6 district?

7 THE WITNESS: This 7-hour rule, this 7-hour
8 criterion or breaking point was purely a matter of --
9 it was reached after discussion between the Shipping
10 Federation and the pilots and, as I say, it represented
11 a convenient dividing line separating the faster ships
12 from the slower ships.

13 THE CHAIRMAN: We had evidence in British
14 Columbia that eight hours of piloting in the northern
15 section is more difficult than eight hours in the
16 lower section, in the southern section, because there
17 were hazards there and there are more frequent outbursts
18 of weather than in the lower section.

19 THE WITNESS: Yes, this is reasonable, my
20 lord. Local conditions have to be taken into effect;
21 but it is difficult to lay down a definite period.
22 This was reached by discussion, by compromise.

23 THE CHAIRMAN: We will adjourn now until 2:00
24 o'clock this afternoon.

25
26 ---Luncheon adjournment.

27

28

29

30



1 ---Upon resuming at 2:00 o'clock p.m.

2 DIRECT-EXAMINATION BY MR. JACQUES:

3 Q. Referring to question No. 20 which is:
4 Why authority to impose fines up to \$40.00 has been
5 taken away from superintendent. It was discontinued
6 for a while and we now know it has been recommenced.
7 Why was it discontinued?

8 A. Because of the general concern about
9 these powers on the part of the legal advisors so when
10 there was revision of the by-law made this was
11 omitted.

12 Q. On their advice?

13 A. Yes.

14 Q. And it was reinstated on their advice?

15 A. Yes.

16 THE CHAIRMAN: Have you found that there
17 are any complaints on the part of your local
18 supervisor with regard to the disciplinary actions
19 like that? Would he feel at ease in imposing a fine
20 on pilots with whom he works?

21 THE WITNESS: Oh, yes, on these minor things,
22 my lord. As you heard in evidence Mr. Hamel had
23 no trouble in this. Generally speaking they are
24 supported by the Pilots' Committee.

25 THE CHAIRMAN: Especially when there is an
26 intermediary between them and the pilots, meaning the
27 dispatchers, because they are not in so close contact
28 as they could be for instance in Saint John, New
29 Brunswick.

30 THE WITNESS: This is so. I had not thought



1 of that but this is reasonable.

2 THE CHAIRMAN: In British Columbia they
3 have dispatchers there but then the superintendent in
4 a case like that always asks for advice of the pilots'
5 committee on those matters.

6 THE WITNESS: Yes.

7 THE CHAIRMAN: Of course he had no power
8 up until now in British Columbia. He had no disciplinary
9 power up until now. Now it has been given back to
10 him.

11 THE WITNESS: He had it before. It was
12 taken away, my lord, but he has it again now.

13 MR. JACQUES, Q: I have been requested by
14 Mr. Lalonde to skip question 21 until Monday morning
15 because he has to obtain some documents from his
16 clients.

17 A. Tuesday morning. I won't be in the box
18 Monday morning.

19 Q. It will be Tuesday morning. We might
20 move to question 22. I believe it had been discussed
21 extensively when we discussed the Quebec district.

22 A. Yes. I don't think I can add anything
23 useful to that.

24 MR. JACQUES: My lord, I believe the minutes
25 of this joint discipline committee were filed in
26 Montreal by the Shipping Federation.

27 THE CHAIRMAN: Joint discipline committee
28 and the advisory committee in Montreal are the same
29 thing.

30 MR. JACQUES: Yes. This expression was used



1 because it was an expression used by the witness in
2 the evidence as quoted.

3 Q. Now question 23: Are the eight pilots
4 non-members of the Corporation of Mid-St. Lawrence
5 Pilots paid their fees directly by the Pilotage
6 Authority?

7 A. No. Section 21(2) of the by-law
8 provides all money collected shall be paid to the
9 United Montreal Pilots Association.

10 Q. You would not know when this section
11 was first adopted, would you?

12 A. Many years ago. We could find it
13 but this was at the time when the only association was
14 the United Montreal Pilots Association and this is
15 after deduction for pension fund, of course. The
16 dues are paid over to the United Montreal Pilots. This
17 organization is still in existence for this purpose
18 so these eight Montreal river pilots of whom you speak
19 there are members of the United Montreal Pilots
20 Association and the United Montreal Pilots Association
21 is responsible for the distribution of the money to
22 them.

23 Q. Now since you adopted this by-law do
24 you know whether any pilot at any time requested to
25 be paid his fees directly by the Department or Pilotage
26 Authority, I should say?

27 A. Not that I can recall, no.

28 Q. Say, for instance, a newly licensed
29 pilot.

30 A. No.



1 Q. No memory of that?

2 A. No.

3 MR. JACQUES: Would the Commission wish
4 further information in that respect?

5 THE CHAIRMAN: That is quite all right.

6 MR. LALONDE: I am instructed that there
7 are not eight pilots but seven.

8 MR. JACQUES: Eight is about seven!

9 THE WITNESS: We used the word "eight"
10 because it is in the question. I didn't check.

11 CROSS-EXAMINATION BY MR. BRISSET:

12 Q. Captain Slocombe, you are aware since
13 the Corporation of the Mid-St. Lawrence Pilots has
14 been formed even though the Department will pay the
15 dues to the United Montreal Pilots Association the
16 cheque will be endorsed by the United Montreal Pilots
17 Association to the order of the Corporation and the
18 funds therefor will be paid to the Corporation in
19 fact?

20 A. I don't know this.

21 Q. Have you ever looked -- I am not
22 speaking of you in particular, but has your Department
23 ever looked into this practice?

24 A. No, I don't think we considered it was
25 our business. We are following the by-law in this
26 respect.

27 Q. Am I acquainting you with something
28 you did not know at all before today?

29 A. I personally did not know anything about
30 it. I don't think that we had any knowledge of this.



1 We understood, as I have explained, that the United
2 Montreal Pilots distributed this money to the pilots
3 concerned under the by-laws of the Association. Now
4 we have not looked behind this.

5 Q. Taking for granted now that the United
6 Montreal Pilots Association does endorse the cheque
7 to a separate entity called the Corporation of Mid-
8 St. Lawrence Pilots, which is a legal entity different
9 from the persons of the pilots themselves, are you in
10 a position to tell us what would be the policy of your
11 Department with respect to this manner of handling the
12 pilotage dues?

13 A. We would assume that it was being done
14 with the cognizance of the pilot concerned unless he
15 made a complaint.

16 Q. When you say the "cognizance" do you
17 mean the acquiescence?

18 A. Yes.

19 Q. Even of those who were not members of
20 the corporation?

21 A. Yes, because they, we assume, we
22 believe, are members of the United Montreal Pilots
23 and it would be the by-laws or whatever you might call
24 it of this organization which would control the
25 distribution of the funds. I think that is what the
26 by-law says.

27 THE CHAIRMAN: Yes. "Shall pay the balance
28 of the pilotage fund to the credit of the United
29 Montreal Pilots". Section 21, sub-paragraph (II).

30 THE WITNESS: Does it not say "who"?



1 THE CHAIRMAN: The supervisor shall pay.

2 THE WITNESS: I thought there was a clause

3 "to distribute in accordance with its regulations".

4 I am sure at first there was another clause there saying
5 to the United Montreal Pilots to be distributed in
6 accordance with the by-laws of this Association, or
7 something like this.

8 THE CHAIRMAN: You are asking for a question.
9 Why was it changed?

10 MR. JACQUES, Q: Would you refer to the by-law
11 to which you referred and at the same time tell us
12 the reason why that statement you have made there has
13 been deleted.

14 A. Very simply done. It was not
15 thought necessary to leave it in.

16 Q. Would you check and see first if there
17 was such a by-law or such a clause, I should say,
18 and in the affirmative why it was modified.

19 MR. BRISSET, Q: Captain, to summarize this,
20 the Department having discharged its statutory duty
21 on turning over the pilotage dues to the United Montreal
22 Pilots Association is no longer concerned with what
23 happens to the funds so paid over?

24 A. No, we are not concerned as long as
25 we have no reason to believe there is any discontent
26 with the situation.

27 Q. Now when you say "discontent" would
28 you mean discontent of the majority or would discontent
29 of a minority be sufficient to impel you to look into
30 what has been done with the funds?



1 A. It would have to an expressed complaint
2 to the pilotage authority before we would go into this
3 matter. We would not go into it on the basis of
4 any rumours of discontent. As far as we know we
5 haven't received any such complaint yet.

6 Q. And consequently have not looked into
7 it?

8 A. No.

9 DIRECT-EXAMINATION BY MR. JACQUES:

10 Q. Captain, one last question. It was
11 stated by Mr. Cumyn yesterday that the Department of
12 Transport felt some concern over the creation of the
13 Corporations. Do you recall that statement?

14 A. I recall it.

15 Q. Has the Department ever considered
16 modifying its by-law in order to make the pilotage
17 dues payable not to the United Montreal Pilots nor to
18 the Association of Quebec Pilots but to the pilots
19 individually.

20 A. No.

21 Q. It has not. Now if we may move to
22 question 24 which refers to an increase of the tonnage
23 limits from 7,000 to 8,000 for class B pilots. I
24 should like to know first why was the increase
25 granted and explain step by step how this request
26 was processed.

27 A. Well, at a meeting in Montreal on
28 August 12th, 1963 the Montreal Pilots Committee
29 requested that this be done because of the increasing
30 number of vessels over 7,000 and the resulting



1 dispatching difficulties. The request was later
2 withdrawn by the pilots but was repeated on September
3 30th with the support of the local supervisor and
4 the regional superintendent.

5 On October 9th the director of Marine
6 Regulations gave tentative approval but on October
7 16th a letter was written to the Shipping Federation
8 asking for support or asking for comment.

9 Reply dated October 25th said the Shipping
10 Federation saw no reason for the change and could not
11 support it. However, after further consideration
12 the decision was made to increase it in view of the
13 report of our supervisor and regional superintendent
14 as to dispatching difficulties.

15 Then on October 30th we submitted to the
16 Law Branch a draft of an amendment, a first draft for
17 vetting as to form and so on and at the same time
18 the fine was included with this amendment. It was
19 signed by the Minister on December 30th.

20
21 --

22
23
24 --

25
26
27
28
29 --
30



1 Q. And it was in the Law Branch from
2 October 30th until when?

3 A. It went from the Law Branch to the
4 Privy Council lawyers. All regulations have to go
5 from the Law Branch to the Privy Council lawyers for
6 vetting again, and then it comes back to us, and we
7 have to put it in the final shape, and then it has to
8 go the rounds again.

9 Q. It has to go the rounds again?

10 A. Until it goes for the signature of
11 the Minister, but whether the Minister was not
12 available for some time or whatever it was, the
13 signature of the Minister was not obtained until December
14 30. It was approved by Order-in-Council on January
15 10, 1964.

16 Q. Question 25, any known instances of
17 vessels grounding between Quebec and Montreal thereby
18 stopping traffic completely for a time?

19 A. I have to read this into the record,
20 Mr. Jacques. We have received this report from the
21 Montreal office, my lord. We asked for the answer
22 to this question, instances of vessels grounding between
23 Quebec and Montreal and thereby stopping traffic
24 completely for a time. Sometime in 1954 the NORTH
25 GASPE exploded and caught fire at her berth in Montreal
26 harbour. Traffic was stopped for a short period of
27 time at that location. We have no record of the
28 actual length of time in that case.

29 April 24, 1957, the tug JOHN PRATT capsized
30 in the main channel while assisting SS NYLAND at



shed 16, Montreal harbour. Traffic was stopped for approximately three hours and traffic was also stopped occasionally for short periods of time during the refloating operations of the wreck.

May 5, 1960 THE FEDERAL EXPRESS, while berthed at section 28, Montreal harbour was rammed by the SS POLARIS and sank off Laurier pier. Traffic stopped for approximately 13 hours, 40 minutes. Traffic was also stopped occasionally in this case for short periods of time during refloating operations of the wreck.

October 13, 1961 the VIBEX ran aground at Pointe a Piseault in the south side of the channel, Quebec harbour, at approximately twenty hours on October 13. The channel closed to traffic from October 14, and eventually traffic was resumed by the orders of the District Marine Agent. We haven't the time here.

Q. What is that?

A. We haven't the time or the date when it opened again. I am sorry.

Q. Would you obtain the dates of that?

MR. BRISSET: In my recollection, my lord, it was not stopped for more than a day. There were 3,000 tons of ore lost in the river and considerable damage to the eel fishing industry all along the river. It is the oil that stopped the traffic, not the ship, because the authorities were afraid of fire.

THE WITNESS: I think the reason why the



1 time is not mentioned is that they haven't got it.

2 Otherwise they would have put the time in there.

3 THE CHAIRMAN: In any event it was stopped
4 for a length of time more than a few hours?

5 THE WITNESS: I am sorry, my lord, I see
6 there is a big space here, but there is a continuation
7 here. By orders of the D.M.A. on October 16. April
8 14th to the 16th. The period of interruption was
9 47½ hours.

10 MR. BRISSET: I am sorry.

11 THE WITNESS: November 16, 1961 the GLYNN
12 reported aground at approximately 2130 on the north side
13 of the channel near buoy 151M Montreal harbour.
14 Traffic stopped while refloating operations were
15 in progress from approximately 2100 on November 20
16 until approximately 0245 on November 21. The period
17 of the interruption was approximately 5 3/4 hours.

18 December 8, 1963 the FORT ALBERNI collided
19 with the SS PROCYON near buoy 7M at Lanoraie, Montreal
20 harbour, at approximately 0800. Traffic stopped from
21 10 hours until approximately 1530. The period of
22 interruption approximately 5½ hours.

23 In this case again traffic was also
24 stopped occasionally for short periods of time during
25 refloating operations of the wreck.

26 Now, there is another case that is mentioned
27 that traffic had also been completely stopped when the
28 SS PINDAR and the SS GEORGIAN FLAME collided many
29 years ago. This says we are now gathering particulars
30 of this accident. This will be reported as soon as



1 we find out.

2 Q. So from the list you have read the most
3 serious accident has been that of the VIREX where
4 traffic was interrupted for 48 hours and where ships
5 would not move either up past Quebec or down past
6 Quebec; is that right?

7 A. This was the longest period of time,
8 yes, and as Mr. McGillivray or Mr. Brisset mentioned,
9 it was the oil on the surface of the water.

10 Q. In all the other instances it seems
11 traffic might have been stopped for a short period
12 of time but stoppage would seem to have been restricted
13 locally; the whole river was not stopped.

14 A. At that point it was stopped.

15 Q. Yes, in the other instances.

16 A. Yes.

17 CROSS-EXAMINATION BY MR. BRISSET:

18 Q. I have a record of cases where from
19 information I have traffic was stopped for very short
20 periods of time. One, a collision on August 19, 1960,
21 between BELLE ISLE II and HOLMSIDE on Lake St. Peter,
22 between Montreal and Quebec. The BELLE ISLE II
23 grounded on the edge of the channel catching fire.

24 A. On Lake St. Peter? I don't know. We
25 asked Montreal office for what they could gather in
26 a hurry. It is quite possible there are some more.

27 Q. The other one was the collision last
28 winter between the LIONEL and the MANCHESTER MERCHANT,
29 and I believe traffic was stopped for a short period
30 of time during the night of the collision when the



1 ships were on fire?

2 A. This is reasonable.

3 Q. In the harbour in Montreal.

4 DIRECT-EXAMINATION BY MR. JACQUES:

5 Q. Question 26, with respect to the setting
6 up of port pilots in Montreal, would you state how
7 the idea originated, the extent of cooperation and
8 assistance given by river pilots and/or Shipping
9 Federation, and whether there was any opposition to the
10 plan.

11 A. This is connected with question 28 also,
12 Mr. Jacques?

13 Q. Yes, you can answer them both at the
14 same time if you wish.

15 A. It started with a brief addressed to
16 the Minister of Transport by Mr. Paul Gerin Lajoie
17 on behalf of the United Montreal Pilots Association
18 on March 8, 1957. This brief contained the first
19 official proposal to set up a separate group of
20 pilots for Montreal harbour.

21 In fact, it requested a separate district
22 with all ships changing pilots at Montreal east. In-
23 cluded in the same brief was a request to divide the
24 river portion of the district into two districts, the
25 division being at Three Rivers.

26 Both of these measures would have required
27 amendments to the Canada Shipping Act. After some
28 discussion agreement was reached to licence a group
29 of men within the Montreal district who would be
30 confined to movages only within the harbour. Pilots



1 of inbound and outbound ships would continue to dock
2 and undock ships.

3 Also agreed to, but only a day or two before
4 a threatened strike deadline was that all ships would
5 change pilots at Three Rivers if a relief pilot was
6 available.

7 Q. That was when?

8 A. I haven't that date but I could get it.
9 There were meetings with the Shipping Federation and
10 the pilots' representatives, and agreement was reached
11 on the composition of a screening board for applicants
12 to become harbour pilots.

13 Q. You have mentioned agreement being
14 reached several times. Would you say agreement between
15 whom?

16 A. Parties concerned, the Shipping
17 Federation and the pilots and the Department.

18 Q. I see.

19 A. Agreement on the composition of a
20 screening board for applicants to become harbour pilots,
21 and on arrangements for a training period for each
22 successful candidate. There were 138 applications
23 which were screened by a board consisting of two
24 representatives of the Shipping Federation, two pilots,
25 two departmental officers and a Montreal harbour master.

26 Twenty-seven candidates were selected for
27 interview, and twelve of these were selected for
28 training.

29 Setting up of the scheme was not left to
30 the Shipping Federation as the question implies, but



1 the training was arranged with the cooperation of
2 the Shipping Federation and the Montreal Pilots
3 committee.

4 The surcharge was arranged by the Shipping
5 Federation with its members, and was a gratuitous
6 payment. It was only a temporary expedient, and
7 the by-law providing for the separate group was signed
8 by the Pilotage Authority on July 15, 1957. This
9 by-law made no tariff change, the fees for movages
10 being already included in the Montreal tariff.

11 Q. Would you have in your files the brief
12 of Paul Gerin Lajoie?

13 A. Yes. It must be on file.

14 Q. Will you file a copy of Exhibit 1333.

15 MR. LALONDE: What is the date?

16 THE WITNESS: It was dated March 8, 1957.

17
18 ---EXHIBIT NO. 1333: Brief of Paul Gerin Lajoie,
dated March 8, 1957.

19
20 Q. There was no opposition to the setting
21 up of this type of pilotage in Montreal harbour?

22 A. But it was eventually agreed to by
23 the Shipping Federation as their cooperation implies.

24 Q. There was no opposition?

25 A. By the Shipping Federation?

26 Q. By anyone?

27 A. Oh, I would say that the Shipping
28 Federation gave very careful consideration to it.
29 They did not welcome it with open arms, but they saw
30 the need for it, I believe.



1 I could explain here that as it was before,
2 the Montreal river pilots were also responsible for
3 movages within Montreal harbour, and these were
4 increasing in number. The river pilots were on two tounde
5 role lists, two assignment lists, one for movages and
6 one for trips. Well, a pilot would come in from a
7 job, his name would be on the list for movages, and
8 often he had to turn out for a movage without sufficient
9 rest, and then he would go back to bed and he would
10 be called again for a trip. This is the main part of
11 the difficulty that gave rise to this, and the
12 increasing number of movages in Montreal harbour which
13 made a hardship.

14 Q. I gather from the evidence given in
15 Montreal this scheme had become exceedingly urgent
16 and it had to be put into effect immediately?

17 A. Well, there was extreme pressure anyhow
18 and something had to be done.

19 Q. Let's not talk about extreme pressure
20 because it may not be urgent even though there may be
21 extreme pressure. There was a sense of urgency to
22 set up this scheme?

23 A. Yes, there was a sense of urgency about
24 it because conditions were getting worse and the
25 pilots were having to turn out with their rest
26 interrupted.

27 THE CHAIRMAN: Was the completion of the Seaway having
28 anything to do with that?

29 THE WITNESS: No, this was before the
30 opening of the Seaway.



1 Q. Could it have been due to a shortage of
2 pilots in the Montreal district, work load increasing
3 and the Department not having licenced pilots in
4 previous years in sufficient numbers we will say?

5 A. I don't recall that this was the reason,
6 but we actually were appointing more pilots in the
7 Montreal district for this particular purpose. The
8 by-law did say that the number of pilots would be
9 decided by the Pilotage Authority after consultation
10 with the Pilots Committee. This does not mean that
11 the pilots committee's views were always followed, but
12 the decision rests with the Pilotage Authority. We
13 would not increase the number of pilots against the
14 wishes of the Pilots Committee unless there were very
15 strong grounds for it.

16 Q. I was given to understand that the
17 scheme, the setting up of the scheme had become urgent
18 because the Department had not licenced in the past
19 years a sufficient number of pilots to take care of
20 the increasing work load, and that they could not use
21 the then apprenticed pilots to fill vacancies, because
22 apparently they had not enough training and therefore
23 a different scheme was devised whereby the work load
24 of the river pilots would be diminished and a section
25 of their work taken over by a group of people whose
26 training could be got through far more quickly.

27 A. This may be correct.

28 MR. JACQUES: Thank you.

29 --

--

--



1 THE CHAIRMAN: When the proposal was first
2 made was it in the nature of strict movages or for
3 pilotage work, the entire pilotage work inside the
4 harbour?

5 THE WITNESS: At first, my lord, it was
6 the request for a setting up of a separate district.

7 THE CHAIRMAN: Altogether?

8 THE WITNESS: So that every ship would change
9 pilots at the limits of this new small district.
10 This, of course, would increase the price of piloting
11 the ships coming in and going out.

12 COMMISSIONER SMITH: My lord, I would like
13 to ask the witness a question in regard to the question
14 of docking pilots in Quebec which has been raised
15 previously. Mr. Calhoun, manager of Cunard Steamships
16 said that using docking pilots at Quebec harbour would
17 increase the expense to the ship and would be prejudicial
18 to the interests of Quebec. Mr. Brodie, manager of
19 Ramsey Greig Company said, among other things, that
20 it would be a good plan to have docking pilots if
21 no additional expense was incurred. He said it
22 cost his company \$6,000.00 a year to dock 300 ships.

23 If my memory serves me correctly, I think
24 there was another shipping interest witness who said
25 (I am not too sure about this, but it could be checked
26 and corrected if I am wrong) who thought it would be
27 a good thing to have docking pilots in the harbour of
28 Quebec. Have you any decided opinion on this
29 question?

30 THE WITNESS: No, I have not, Mr. Smith.



1 There are different schools of thought on this. There
2 is the thought that a pilot coming up the river has
3 put in eight or nine hours on the bridge and he still
4 has to perform a difficult manoeuvre. This is quite
5 a strong argument on the part of the pilots. Then
6 again, if it increases the cost to shipping, then there
7 is the other side of it.

8 THE CHAIRMAN: And the proposal there is
9 not like in Montreal; it is not for movages, it would
10 be for all dockings?

11 THE WITNESS: Yes. This would be tantamount
12 to the original request in the Montreal case. It
13 would be tantamount to changing pilots every time.

14 THE CHAIRMAN: Meaning the delays incurred
15 by changing pilots -- reducing speed and stopping all
16 boats and picking up a new pilot and then ---

17 THE WITNESS: Of course, we are speaking
18 now of only ships going into Quebec harbour.

19 THE CHAIRMAN: Yes, of course, for docking.

20 THE WITNESS: That is right.

21 CROSS-EXAMINATION BY MR. BRISSET:

22 Q. Captain, was not one of the problems
23 at that time due to the fact that only a few of the
24 river pilots would do the movages?

25 A. There was a case that some of the river
26 pilots who lived not in Montreal would go home and
27 they would not put their names on the tour-de-rôle
28 list for the movages. I recall that -- quite right.

29 Q. In other words there was only a few
30 of the river pilots that had put their names on the



1 [^]
tour-de-~~role~~ for movages?

2 A. I do not know. "Only a few" implies
3 just a small proportion. I am not prepared to say
4 that; I do not know.

5 Q. I am asking whether this was not the
6 problem at the time -- there were not enough river
7 pilots on the tour-de-r[^]ôle list for movages to meet
8 all the needs?

9 A. This did enter into the question I
10 recall now, Mr. Brisset, yes.

11 Q. You have spoken of the pilots'
12 committee assisting in the setting up of this harbour
13 pilotage scheme. Is it not a fact, Captain, that
14 the pilots' committee to which you refer was in fact
15 Captain or Pilot Tremblay and only Captain Tremblay?

16 A. I do not know, but I would say that
17 he would surely do it with the cognizance of the
18 rest of the committee. He would not be doing this as
19 an individual surely?

20 Q. Well, I have been lead to understand
21 that he was, but I may be wrong and I could stand
22 corrected.

23 A. I cannot say either because I do not
24 know. I know there were several pilots -- at least
25 one pilot who lent himself, or they lent themselves,
26 to this problem of training the new pilots in a hurry.
27 And this was a very good scheme.

28 Q. There were actually two pilots, I
29 understand, from the Kingston district and two pilots
30 from the Montreal district.



1 In your evidence you have told us, Captain,
2 that when the time came to screen the applicants for
3 training purposes the committee that did do this
4 screening was composed amongst others of two
5 representatives of the shipping industry. Do you
6 recall that?

7 A. Correct.

8 Q. We have it in evidence that except
9 for that special occasion the shipping industry has
10 not been permitted to participate in the selection
11 of trainees. Is there any reason why this was not
12 done in this particular case?

13 A. Why this was not done? What was not
14 done? You had better rephrase the question Mr. Brisset.

15 Q. Why in this particular case then were
16 the representatives of the shipping industry permitted
17 to participate in the selection of the trainee
18 material?

19 A. Well, I think that this was a crash
20 program that everybody was anxious to co-operate with
21 everybody else in. There was also the matter of
22 arranging for some payment for these new men while
23 they were training and I imagine the pilots agreed
24 that the cooperation of the shipping people was
25 essential in this matter.

26 Q. You are aware that the shipping
27 industry is also paying for the apprentices in the
28 other districts?

29 A. Yes.

30 Q. Would that not be a sufficient reason



1 to permit them to participate in the selection of the
2 trainee material?

3 A. It might be for anybody else, but the
4 pilots are unequivocally opposed to this.

5 Q. And the Department has gone along
6 with the pilots?

7 A. Yes.

8 Q. As a matter of policy?

9 A. This is the policy of the pilotage
10 authority.

11 ---CROSS-EXAMINATION BY MR. LALONDE:

12 Q. Did I understand you to say that
13 pilots had to resort to a threat of a strike in
14 1957 to have the change of pilots in Three Rivers?
15 I think you read something to that effect.

16 A. Is this Three Rivers or ---

17 Q. Well, if you read the beginning of
18 what you read before, I think you said something to
19 that effect.

20 A. This is on the other question. We
21 are talking about harbour pilotage now.

22 MR. JACQUES: It is at the beginning of
23 your answer to question 26.

24 THE WITNESS: Yes. Oh, I have here that
25 this was agreed to but only a day or two before the
26 threatened strike deadline.

27 MR. LALONDE, Q: In 1957?

28 A. Yes, in 1957, this is correct.

29 Q. And this was in connection with the
30 change of pilots at Three Rivers?



1 A. This was all in one brief asking for
2 a separate district at Three Rivers.

3 Q. Yes, but what was agreed within one
4 or two days of the strike, or threatened strike?

5 A. Oh, yes, that is right -- that all
6 ships would change at Three Rivers.

7 Q. That was the point about which the
8 pilots threatened to strike?

9 A. I think you are correct, yes.

10 Q. Do you remember that time?

11 A. I cannot personally in detail, but I
12 remember the time.

13 Q. Who was opposed so strongly to such a
14 change that the pilots had to resort to a threatened
15 strike? Was the Department opposed to the change
16 at Three Rivers?

17 A. No, it was not.

18 Q. The presumption is that it was a third
19 party?

20 A. Yes.

21 DIRECT EXAMINATION

21 BY MR. JACQUES, Q: With respect to question
22 27, since the Commission will be referring to your
23 file and since you have already answered it -- I
24 think it was yesterday -- I think we may skip it,
25 unless the parties have questions to ask on this
26 particular question.

27 A. I have a long narrative here that I
28 can read as to the events, if this would be helpful.

29 Q. Yes, it might sum up what is in your
30 files.



1 A. Well, it has to do with the St. Lambert
2 lock dispute.

3 Q. Yes?

4 A. In November, 1959, the harbour pilots
5 through their counsel claimed that they should be paid
6 an extra movage charge for moving a ship along the
7 approach wall to the St. Lambert lock. The Department
8 held that the movage was from the berth in the harbour
9 to the berth in the St. Lambert lock and that a
10 temporary halt in the proceedings while waiting for
11 the lock to open did not complete the job. Any
12 other interpretation might result in increasing the
13 charge for a movage three or four times.

14 Since the opening of the Seaway the practice
15 has been followed that if a Cornwall pilot was waiting
16 at the lock for an upbound ship he would go down to
17 the approach wall and relieve the river or harbour
18 pilot there. In the winter of 1961-1962 the
19 Cornwall pilots decided that they would no longer do
20 this. In the spring of 1962 the stoppage of work
21 took place and as a result the harbour pilots
22 received an increase in pay of close to \$1,000.00 for
23 the season.

24 Q. Each or ----

25 A. Each. Since one of the conditions
26 of the settlement of the strike was that there would
27 be no requests for further increases for three years
28 they realized, of course, I suppose, that there was
29 little hope of obtaining extra money for work at the
30 approach walls. Accordingly they wanted the Cornwall



1 pilots to resume their former practice. The Cornwall
2 pilots refused.

3 MR. LALONDE: I am sorry; I must object here
4 to the inferences which I read into this statement.
5 This is obviously an assumption.

6 THE WITNESS: I will delete whatever you
7 want me to delete.

8 THE CHAIRMAN: That is all right, with the
9 reservation that Mr. Lalonde has put there.

10 THE WITNESS: Then the argument between the
11 two groups was started. After special meetings at
12 which the regional superintendent tried to have them
13 reach agreement an official order was given that a
14 change of pilots was to take place in the lock.
15 This was done, but the argument continued between the
16 harbour pilots and the Pilotage Authority. There
17 were more meetings at which it was shown that there
18 was frequently a wastage of the pilots' time with a
19 Cornwall pilot waiting at the lock and a harbour pilot
20 waiting on board a ship at the approach wall.

21 The Cornwall pilots were approached to see
22 if they would agree to revert to the previous practice
23 of removing the harbour pilot at the berth immediately
24 below the lock. It was thought that agreement was
25 reached and in fact the Shipping Federation and the
26 Dominion Marine Association were informed that a
27 by-law was being made to make this official.

28 However, the Cornwall pilots then threw in
29 another condition, which was that the harbour pilots
30 would join downbound ships above the lock when moored



1 there waiting for the locks to open. This the
2 harbour pilots refused to accede to and stated flatly
3 their intention to leave the ships at the first
4 position below the lock as from May 27th.

5 MR. JACQUES, Q: Of what year?

6 A. That is 1962. They were persuaded
7 to postpone this action for one week and to attend
8 a meeting with the Deputy Minister in Ottawa in the
9 noon time.

10 The meeting was held on May 28th and attended
11 by three representatives of the harbour pilots and
12 five of the Cornwall pilots with Mr. Campbell as
13 counsel. At this meeting the Cornwall pilots
14 introduced yet another factor that their group might
15 be prepared to relieve below St. Lambert lock if they
16 themselves might be relieved below Snell lock by
17 the Canadian and American pilots of district No. 1.
18 The outcome of the meeting was a temporary compromise
19 subject to approval by the members of the groups for
20 a period, which was judged to be about two months,
21 during which time the Cornwall pilots would relieve
22 at the first berth below the lock.

23 In the meantime an operational research
24 would be instituted and the United States authorities
25 would be approached about the situation at Snell
26 Lock. A letter was written to each group setting this
27 out. The harbour pilots agreed but the Cornwall
28 pilots still adhered to the condition re being
29 relieved above the lock.

30 The harbour pilots then set another deadline



1 following which they said they would leave ships
2 below the lock. They were persuaded to relent and
3 the deadline was removed. A firm of consultants
4 was employed to conduct a time study and the result
5 was reported in October.

6 Included in the report were many statistics,
7 among them the fact that the average time spent by
8 the harbour pilots waiting below the lock was six
9 months per pilot per day. These are averages, of
10 course. The average time spent by Cornwall pilots
11 waiting at the lock was 15½ minutes per pilot per
12 day. This was under the arrangement followed in
13 1963 whereby the Cornwall pilots relieved at the
14 first position below the lock if they were there and
15 the lock was not open.

16 Under the circumstances the Department felt
17 it could satisfactorily be continued in view of the
18 small average times involved. The two groups were
19 informed accordingly and, while the harbour pilots
20 accepted with some reservations, the Cornwall pilots
21 stated flatly that they did not intend to continue
22 the practice of going below the lock unless they could
23 have the same treatment at Snell Lock. The Cornwall
24 pilots cited the fact that they were already going
25 some miles outside their district into Snell Lock
26 and that their tour of duty was from 10 to 14 hours
27 while the harbour pilots finished the job in a couple
28 of hours.

29 The Department was bound to agree that this
30 was so. In fact these were the reasons that led to



1 the first decision that changes must be made in the
2 lock.

3 Then to end a long story the Minister had a
4 meeting with representatives of both groups and the
5 harbour pilots demanded extra money if they were
6 going to do the job. This was just at the opening
7 of navigation.

8 Q. Of what year?

9 A. 1964. And the demands were met.

10 The tariff was amended to provide \$20.00 extra for
11 every ship moved by a harbour pilot from the approach
12 wall into the lock, plus \$5.00 for each hour after the
13 first hour from the time the ship first reached the
14 approach wall until moored in the lock. This is the
15 situation at present ---

16 THE CHAIRMAN: So that is the situation
17 now. I understand that it is not only harbour
18 pilots who bring ships to the St. Lambert lock; it
19 is also the river pilots. What happened to them?

20 THE WITNESS: At the original inception of
21 the opening of the Seaway the river pilots claimed
22 that this was extra and they were granted an extra
23 \$20.00 if they took a ship into the Seaway. This
24 comes in with the next question, my lord.

25 THE CHAIRMAN: I see.

26 MR. JACQUES: With respect to question 29,
27 my lord, I wish to apologize to my learned friend Mr.
28 Lalonde. I am sure he will accept my apologies and
29 be satisfied that it was not done on purpose. The
30 question refers to Commission counsel whilst it should



1 have referred to the Pilots' Federation counsel.

2 MR. LALONDE: The honour is all for me,
3 my lord.

4 CROSS-EXAMINATION BY MR. BRISSET:

5 Q. Captain, I understand that the experts
6 who were retained to make an analysis of this situation
7 at the St. Lambert lock was the firm of J.T.R.
8 Campbell and Company, marine architects, surveyors and
9 so forth, of Montreal?

10 A. That is correct.

11 Q. What was the fee paid by the Government
12 to these experts for this research?

13 A. I don't know.

14 Q. I am told that it was \$12,000.00.
15 Would you know that?

16 A. This is approximately it.

17 Q. I take it that the solution eventually
18 found had nothing to do whatsoever with the recommendations
19 which were contained in that report. Is that correct?

20 A. They were not exactly as recommended.

21 Q. In other words, the Government did not
22 follow the recommendations of the experts that granted
23 the pilots requests.

24 A. Yes; because as I said before the
25 Department felt that this was too much to ask if either
26 side was to be favoured, as you might say, we should
27 not take on extra work on to the Cornwall pilots who
28 were already doing a long tour of duty.

29 Q. If the pilots were to be given what
30 they wanted anyway what was the purpose of hiring the



1 experts and paying them \$12,000.00 for a report that
2 was not going to be used?

3 A. Perhaps it was hoped that something
4 else would come up.

5 Q. Are you sincere in saying this?

6 A. Saying what?

7 Q. It was hoped the report would come up
8 with something. Do you mean that could be used that
9 the pilots then wanted?

10 A. Naturally the Government employed
11 this firm of consultants in the hope that a very
12 sticky problem would be solved.

13 Q. I assume you have read the brief of
14 the Shipping Federation Exhibit E726?

15 A. Many months ago.

16 Q. It was written prior to June 25th, 1963,
17 prior to the report of J.T.R. Campbell and prior to
18 the final decision of the Department on this particular
19 problem. You have read it, I think?

20 A. I have read it but I don't recall the
21 details of it.

22 Q. May I quote to you the final paragraph
23 of this brief at page 95 on this particular problem
24 of the St. Lambert lock. It reads this way:

25 "If cynicism may be permitted
26 at this stage and assuming that
27 the Department of Transport stands
28 upon its decision, the Montreal
29 harbour pilots will undoubtedly
30 request a change in the tariff



1 providing for a special fee to
2 move vessels from the lock-wall
3 to lock No. 1 (this has already
4 been intimated) and, if this
5 demand is granted, not only the
6 cost of pilotage in the Montreal
7 harbour will increase but the
8 workload of the pilots will be
9 artificially increased in proportion
10 to the waiting time of the pilots
11 at the lock-wall waiting for their
12 turn with, in fact, the pilots
13 sitting on the bridge and having
14 nothing to do. If the usual
15 pattern is followed, the pilot,
16 after having gained the 'recognition'
17 that a special fee should be
18 assessed for moving a vessel from
19 the lock-wall into Lock No. 1,
20 will then claim that detention
21 at the lock-wall is an abnormal
22 condition and that they should
23 be given an extra detention fee
24 and so on with again a descent
25 upon the Minister of Transport
26 and threat of a strike, etc."

27 A. Your crystal ball worked very well.

28 Q. Is that not exactly what happened?

29 A. Your crystal ball worked very well.

30 Q. It did not require the service of



1 experts to come to that conclusion as I am not an
2 expert and I wrote this six months before it happened.

3 MR. MCGILLIVRAY: You gave the pilots a
4 good idea!

5 MR. BRISSET: I don't think they needed my
6 assistance.

7 CROSS-EXAMINATION BY MR. LALONDE:

8 Q. My friend's crystal ball might be good
9 but I would like to clarify a few points. It would
10 seem if one reads the recommendation concerning the
11 St. Lambert lock problem that the experts seem to have
12 taken the view of the pilots somehow or the Department
13 that an additional remuneration was required for that
14 service. I am reading the first recommendation of
15 the experts that the Cornwall pilots be instructed to
16 relieve the harbour pilots below the St. Lambert lock
17 and the Cornwall pilots should be suitably remunerated
18 for this service.

19 Based on this point is it not the case that
20 the experts would rather have taken the view of the
21 pilots than that of the Shipping Federation?

22 A. I have no comment.

23 Q. Is it not the case that the pilots did
24 not descend upon Ottawa but they were called by the
25 Minister?

26 A. Did I use the word "descend"?

27 Q. No. My honourable friend used those
28 terms.

29 A. They were called by the Minister.

30 Q. In the summary you made before there



1 was a statement which I am informed is not quite
2 correct. When the pilots were summoned by the Minister
3 to Ottawa the Montreal harbour pilots did not ask or
4 demand an increase in the tariff. I am informed
5 rather what happened is that the Minister stated that
6 there were three solutions: (1) that the Cornwall
7 pilots would do the job and be paid; (2) the Montreal
8 harbour pilots would do the job and be paid; (3) and
9 if nobody wanted to do it there would be a buffer
10 pilot or whatever it was who would do the job for
11 it and be paid. These were the only three possible
12 alternatives and discussions had to take place on that
13 basis. Do you recall such a statement by the
14 Minister?

15 A. I was not at the meeting.

16 Q. I am instructed that contrary to what
17 you stated in the report the harbour pilots did not
18 come down to ask for an increase in the tariff for that
19 purpose this time. It was rather they would prefer
20 not to do it.

21 A. I cannot contradict this. I was not
22 at the meeting.

23 Q. In effect one could say that the study
24 made by the experts was followed in the sense that
25 one of the groups was paid but a different group from
26 the one recommended by the experts. Is that correct?

27 A. Yes, it is right.

28 MR. BRISSET: My lord, I understand that
29 correspondence is going to be put before the Commission
30 relating to this problem, that is correspondence between



1 the Department and the Shipping Federation. We do
2 not propose to put in evidence in this regard. We will
3 rely on the correspondence that will be filed but
4 there is one letter particularly, which is a letter
5 dated July 3rd, 1964 by the Shipping Federation to the
6 Honourable Mr. Pickersgill in which some of the side
7 effects of the solution adopted in this case are
8 outlined. I would like to bring it to the witnesses
9 attention in case he might have any comments to make
10 at this stage.

11 It reads this way:

12 "Further we find it rather
13 ironical that in addition to these
14 new charges (that is movage and
15 the detentions) we are also being
16 billed detention time by the
17 Cornwall pilots who are waiting
18 for the vessel to come into the
19 St. Lambert lock. In other words,
20 it appears that on many occasions
21 the Montreal harbour pilot and
22 the Cornwall pilot are both
23 being detained for the same period
24 of time at the St. Lambert lock
25 for the same ship and the net
26 result is double detention to
27 the vessel."

28 Then the letter I must say is rather harsh. It says:

29 "It is difficult to imagine a
30 more clear cut case of inefficient



1 administration and misuse of the
2 pilots time."

3 A. I have no comments.

4 Q. Now do you agree as a practical
5 situation you will have now the pilots of both districts
6 on detention?

7 A. It might conceivably happen that the
8 detention at the lock does not apply before an hour
9 has passed, two hours. It will be very very rare
10 a pilot will be sitting on a lock for two hours.
11 This would be a very exceptional occasion.

12 Q. But you might have pilots waiting
13 and therefore not being used to any effective purpose
14 both at the lock? The Cornwall pilot and the harbour
15 pilot at the local lock. You have pilots waiting
16 doing nothing.

17 A. This is feasible.

18 Q. This correspondence, my lord, will be
19 put before the court. There is a reply from Mr.
20 Baldwin the Deputy Minister.

21 A. I am told, my lord, that we do keep
22 track of the ships at the weight wall and the Cornwall
23 pilot is not ordered until we are reasonably sure that
24 he is going to be required.

25 Q. And in effect are you aware that the
26 harbour pilots have made a practice of calling the
27 Cornwall pilot and giving the proper E.T.C. so the
28 Cornwall pilot should not wait too long at the St.
29 Lambert lock? Are you aware of that?

30 A. I am not aware of it. I hope they



1 would do that.

2 Q. You mentioned the fact that the first
3 two hours the Cornwall pilot receives no remuneration
4 while waiting at the lock. Could not this problem
5 happen in other districts in the sense you could have
6 a ship which for some reason would be detained by
7 fog, on Lake St. Peter, for instance, and the pilot
8 would be waiting at Three Rivers to board her and
9 might be waiting a couple of hours? Every time you
10 have a change of pilot you might have a pilot aboard
11 ship at anchor and for some reason because it is
12 delayed another pilot has been ordered and waits
13 to change at the next station.

14 A. This is one of the problems of
15 dispatching. The dispatchers do the best they can to
16 avoid such contretemps.

17 THE CHAIRMAN: While we are on the subject
18 of the harbours and harbour pilotage and before
19 passing to the next question I will interject of mine.
20 I noted in the by-laws that they provide for movages
21 in the harbour of Quebec both in the by-law of
22 Montreal and in the by-law of Quebec. Whose
23 responsibility is it to take care of the movage in
24 the harbour? Is it Montreal district or Quebec
25 district?

26 THE WITNESS: Generally speaking Quebec
27 district but there are occasions on which the
28 Montreal pilot would be asked to perform the movage.
29 You are aware the districts overlap?

30 THE CHAIRMAN: Yes. The Montreal pilot



1 is relieved and therefore they should call upon the
2 Quebec pilot ---

3 THE WITNESS: I think this is the practice,
4 my lord. I can't remember exactly now.

5 THE CHAIRMAN: I would like you to find it
6 out. This raises another question.

7 MR. MCGILLIVRAY: Would it not be a case
8 of where the pilot takes a ship from Montreal to
9 Quebec harbour and it is forced to anchor and then
10 move to the wharf. That makes it a movage?

11 THE WITNESS: Yes.

12 THE CHAIRMAN: I am asking this question
13 because unless it is a specific prescription in the
14 by-law it does raise a difference. How many movages
15 are you going to pay, two or one?

16 MR. LALONDE: This will be settled as
17 usual in a very fraternal way!

18 MR. MCGILLIVRAY: By imposing a double
19 charge.

20 THE CHAIRMAN: I would like to know anything
21 in the by-laws to provide for that or what was the
22 reason why. It is also mentioned moves in the
23 harbour of Quebec in the Montreal by-law.

24 THE WITNESS: I think that Mr. McGillivray
25 has asked the reason for that. I will check on that.

26 --

27 --

28 --



1 DIRECT-EXAMINATION BY MR. JACQUES:

2 Q. The next question is again a question
3 of interpretation of by-laws and refers to section
4 3(1) of the schedule of the Montreal by-laws. I might
5 read the schedule. In addition to the dues prescribed
6 in sections 1 and 2 of this schedule an additional
7 charge of \$20.00 shall be paid by all vessels when
8 piloted -- and I underline the words "when piloted" --
9 by river pilots from the approach to the St. Lawrence
10 seaway in the harbour of Montreal to a berth in
11 St. Lambert lock whether berthed alongside the
12 approach wall or vice versa.

13 This section was discussed in Montreal,
14 volume 102, February 6, 1964, page 12729. It seems
15 that this section has been interpreted as meaning
16 that the \$20.00 would be charged only if the pilot
17 did the work. If he did not do the work, as might very
18 well be in the case of lake ships, the \$20.00 fee
19 would not be charged.

20 A. This is correct, would not be
21 charged.

22 Q. This was the official interpretation?

23 A. This was the intention of the wording.

24 Q. Not only the interpretation but the
25 intention of the Department?

26 A. Yes.

27 Q. Of the Pilotage Authority?

28 A. That is right.

29 THE CHAIRMAN: In other words, it was a
30 different type of work of pilotage duty. It was a new



1 pilotage duty for the last part of the trip, and not
2 in a continuous duty, because when an exempted ship
3 is taking a pilot he is obliged to pay the full fee.
4 If it is in the fee normally in a compulsory district,
5 the full fee should be charged even to an exemption.

6 MR. JACQUES: In this case your lordship
7 is right, but there is also another problem: Non-
8 exempt ships not using the service of the pilot would
9 not be charged \$20.00. This would be an exemption
10 which is not provided for under law.

11 THE WITNESS: This is being provided by
12 by-law. This is a special consideration which is
13 being provided by by-law under the provisions of
14 347.

15 MR. JACQUES, Q: Under section 347?

16 A. Yes. This was our view. The
17 Shipping Federation ---

18 Q. It should be restricted to steamships
19 registered in Her Majesty's dominion and not be
20 on vessels at large.

21 THE CHAIRMAN: That is all right.

22 THE WITNESS: This was agreed to by the
23 Shipping Federation, but the extra \$20.00 was not
24 agreed to by the Dominion Marine Association.

25 MR. JACQUES: Then I must congratulate the
26 Dominion Marine Association for its deep respect
27 for the law.

28 MR. MASON: Also service provided in two
29 districts. Canalling service and this provided
30 partly in the Montreal district and partly in the



1 Cornwall.

2 THE WITNESS: This is another point which
3 makes it very difficult. Two overlapping districts,
4 because the Cornwall district extends to the end
5 of the Seaway entrance, and this was done deliberately
6 in the hope that pilots would never argue about it.

7 THE CHAIRMAN: The Commission is arguing
8 about it.

9 MR. MASON: Have the pilots in fact
10 argued about it?

11 THE WITNESS: No, not at this time.

12 MR. JACQUES, Q: We have time for the last
13 question, question 30, statement giving details of
14 alleged infractions to Montreal harbour traffic
15 regulations or instructions given by harbour master
16 and disciplinary action taken, if any, and if none,
17 why, for the past five years.

18 A. I have two lists here which are quite
19 lengthy, and I am sure there will be other questions
20 which the Commission will ask after it has studied
21 them which I am not in a position to answer yet.

22 Q. I might suggest we file these two
23 lists and that they be studied by all concerned and
24 perhaps next week you can submit questions to the
25 Department if we are not satisfied.

26 A. The doubt of my own mind was questioning
27 where it says fined so much. Whose fine was it?
28 National Harbours Board or Pilotage Authority, and I
29 am told it was the Pilotage Authority. There has
30 never been a fine imposed by the National Harbours



1 on the pilots.

2 Q. These documents will be filed, and
3 they are entitled as follows: list of infractions
4 of N.H.B. by-laws, 1959 to 1964 to date, and list
5 of complaints alleging infractions received from
6 harbour master.

7 A. The Commission will note in the
8 second list, the list received from the harbour
9 master, there are several incidents of which the
10 pilotage office had no record.

11 ---EXHIBIT NO. 1334: List of infractions of N.H.B.
12 by-laws 1959 to 1964 to date
13 and list of complaints
14 alleging infractions received
from harbour master.

15 THE CHAIRMAN: Any further questions on
16 the Quebec-Montreal district? Of course with regard
17 to Exhibit 1334 if there are questions when we
18 have studied it, you can put them in next time.

19 MR. JACQUES: I have no further questions,
20 my lord, with respect to the Montreal district.

21 THE CHAIRMAN: So we won't get into the
22 Cornwall district. I will now adjourn until Monday
23 morning at 10:00 o'clock, and then we will have,
24 as indicated here, the Department of Public Works
25 and then Computing Devices of Canada, and that I
26 suppose will take most of the day, if not all of
27 Monday, and so Tuesday we will resume with Captain
28 Slocombe.

29 ---Whereupon the hearing adjourned.



ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT
Ottawa

VOLUME No.:
143

DATE:
Sept. 24, 1964

OFFICIAL REPORTERS
ANGUS, STONEHOUSE & CO. LTD.
BOARD OF TRADE BLDG.
11 ADELAIDE ST. W.
TORONTO

364-5865

364-7383



ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Exchequer Court Building,
Ottawa, Ontario, on Monday, the
21st day of September, 1964.

COMMISSION:

The Honourable Mr. Justice Bernie	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Cor- poration of Montreal Har- bour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Cor- poration of the Upper St. Lawrence Pilots
Mr. R. Langlois	for the Canadian Merchant Service Guild
Mr. A. Garon	for the Department of Public Works
Mr. .R . Macgillivray	for the Department of Transport
Mr. H. P. Legg	for Crown Zellerbach Building Materials



Ottawa, Ontario,
Monday,
September 21, 1964

---On commencing at 10.15 a.m.

MR. JACQUES: My lord, before we start with the evidence of the Department of Public Works I should like to advise the Commission that I have received a letter from the counsel for the Authority. St. Lawrence Seaway / I should like to read the letter, my lord. It is dated September 18th, and it reads as follows:

"In connection with the evidence before the Commission of our Director of Operations and your remarks subsequent to the session on September 14th, in case it may be of interest to you I am enclosing herewith a copy of a subsequent memo relative to the responsibility of pilots for violations of Seaway regulations."

The memo was dated September 16th from John T. Carvell to R. J. Burnside, and I should like to file it, my lord.

THE CHAIRMAN: Our Secretary has suggested that it should be read into the record so that all those who are concerned should know.

MR. JACQUES:

"Although it is true that we do not exercise disciplinary jurisdiction over them, in the ordinary sense, pilots are subject to the requirements of the Seaway Regulations. Section 16 (2) provides that a person is



1 guilty of a violation who

2 (a) handles any vessel contrary to
3 the provisions of these Regulations
4 or any directions of the Authority
5 or of an officer given under these
6 Regulations.

7 (b) is a party to any act described
8 in paragraph (a), or

9 (c) is the owner, charterer or master
10 of any vessel by means of which any
11 act described in paragraph (a) is com-
12 mitted

13 'unless . . . he establishes that the act
14 . . . took place without his consent, and
15 that he exercised all due diligence to pre-
16 vent its commission'. Consequently, a
17 pilot may be guilty of an offence. This
18 depends upon a question of fact, whether he
19 was handling or assisting in the handling of
20 a vessel contrary to a provision of the
21 Regulations. I think that this is the
22 testimony which Mr. Jacques was seeking
23 at the Pilotage Commission hearing on
24 Monday afternoon, September 14th.

25 "The relationship between a pilot
26 and a master is not clearly defined. The
27 Canada Shipping Act seems to contemplate
28 that the pilot should have conduct of the
29 vessel, however, there is no express
30 direction to that effect. Pilots



1 voluntarily employed are certainly no more
2 than expert advisers to the master, and
3 are not in charge of the direction of a
4 ship. On the other hand, there are legal
5 authorities which indicate a sort of dual
6 authority in the case of pilots employed in
7 compliance with a legal requirement, with
8 the pilot and the master jointly in charge
9 of the direction of the vessel in the
10 ordinary course of navigation, but the
11 pilot being in charge where local know-
12 ledge is required; this position appears
13 to be the one adopted by the trade.

14 "In the field of owner's responsi-
15 bility for damages caused by the negligence
16 of pilots, Courts in England have said that
17 pilots voluntarily employed by the owner or
18 master are agents for whose direction the
19 owner is responsible, but that compulsory
20 pilots are not agents, so that the owner
21 is not responsible for their negligence
22 in the direction of a vessel. Until
23 1960, the Canada Shipping Act provided,
24 in effect, that owners would be responsible
25 for the acts of Canadian pilots. An
26 amendment to the Act in 1960 has provided
27 for compulsory pilotage in the Great Lakes
28 Basin in regard to certain foreign vessels,
29 and the provision for the owner's liability
30 does not appear to extend to cover the



1 acts of pilots so employed.

2 "The application of these common law
3 principles or doctrines to the amended
4 pilotage situation may, if they can be
5 applied in the criminal law field, en-
6 large the circumstances under which a
7 pilot would be guilty, as well as the
8 master of a violation of Seaway Regula-
9 tions, and, to a lesser degree, the appli-
10 cation of these principles may give rise
11 to circumstances in which the guilt would
12 be that of the pilot alone. However, in
13 my opinion, these possibilities should not
14 materially affect our system for the en-
15 forcement of Seaway Regulations. Cer-
16 tainly, the procedures of our operational
17 offices in the field need not be affected.
18 The master is prima facie guilty, and the
19 onus is on him to show that the fault was
20 that of the pilot. I will be surprised
21 if this defence is ever raised. In any
22 case, when the Authority reviews regional
23 directors' reports relative to alleged
24 offences, the possibility of proceeding
25 against the pilot can be considered along
26 with the possibility of excusing the master
27 and owner."

28
29 ---EXHIBIT NO. 1335: Letter from the St. Lawrence
30 Seaway Authority dated
September 18, 1964, and
copy of memo dated September



16, 1964, from Mr.
John T. Carvell to
Mr. R. J. Burnside.

The Chairman:

Before we proceed any further, I wish to tell you that we had a very, very good trip on Saturday. It was very successful, and it showed the necessity of going, if I can say, in the field. It was maybe a little too enjoyable to the pilots concerned because we had a good, clean and well-equipped ship, the LINGENFJORD. Also, we had too good a weather. Also the trip was made by day.

However, we had a little taste of the pilot's life in that the e.t.a., as we told you the other day, was for six o'clock in the morning, meaning we were supposed to get up at four-thirty in the morning. When we went to bed we were supposed to get up at that time, but then the e.t.a. was changed, and unfortunately we had a secretary who did not wake us up in the morning, and the first call was received at seven-fifteen. We went to Wolfe's Island where we were supposed to board ship at ten o'clock. The ship did not show up before eleven, so we tasted a bit of the waiting that a pilot has to do. This is the experience we had.

As to weather, it was perfect weather. There was a little wind, about 15 knots southeast, which rendered the trip very enjoyable, especially while making the Iroquois Lock, so we could see the manoeuvre with the wind and we might also appreciate what it could be when the wind was against the ship. The wind was pushing the ship



1 against the tying walls. We were going slowly, and it
2 was a very, very interesting manoeuvre, hearing the
3 pilot giving what we call the orders. We learned
4 quite a lot about locking. We listened, as I said, to
5 the pilot's orders, and we had Captain Morisset with us,
6 explaining what would be the ship's reaction. We found
7 what he said was true although we didn't believe it at
8 first; it was not that obvious. We arrived at Snell
9 at eight o'clock, I think. We had a very good trip back.
10 It was very enjoyable altogether.

11 / We learned a lot and it helped us to appre-
12 ciate the evidence we had received, so we wish to thank
13 very much those one or two who had something to do with
14 it, the Shipping Federation for providing such a good ship
15 and the assistance we had from the pilots also.

16 MR. JACQUES: Now I will call Mr. Hurst, my
17 lord. Public Works is represented by Mr. Garon.

18 C. K. HURST, sworn

19 DIRECT EXAMINATION BY MR. JACQUES:

20 Q. Mr. Hurst, I believe you were
21 appointed to answer four of the five questions which
22 the Commission has put to the Department of Public
23 Works in connection with previous evidence?

24 A. That is correct.

25 Q. What is your position with the
26 Department of Public Works?

27 A. I am chief of the Maintenance and
28 Operations Division of the Harbours and Rivers Branch
29 of the Department of Public Works.

30 Q. You are an engineer, I take it?

A. That is correct.



1 Q. How long have you been in your pre-
2 sent position?

3 A. Four years.

4 Q. The first question is as follows:
5 Is there any study pending to establish degree of
6 erosion caused by vessels as opposed to erosion caused
7 by natural phenomena? If so, extent of same?

8 A. The answer is Yes. I would maybe
9 preface my remarks a little bit by a historical sum-
10 mary of this situation with respect to federal govern-
11 ment responsibility.

12 Q. Yes, please.

13 A. To protect shore properties against
14 erosion. It is limited to erosion that is caused
15 by navigation or by the presence of a federal govern-
16 ment structure.

17 Now, the responsibility has varied
18 for many years, and it goes back quite a long time in
19 history. At one stage this was carried out under
20 the aegis of the unemployment works during the 1930's.
21 Later on it became more restrictive so that our pre-
22 sent responsibilities now are to a place where there
23 is a quay, shall we say, major damage caused by
24 erosion or vessels.

25 Now, there are many causes for
26 erosion. Among these is the waves generated by
27 vessels passing along the front of the shore properties.

28 In the past, the federal government
29 as I said assumed responsibility for the construction
30 of walls where there was a high degree of erosion and



1 for which the contributing factor was navigation. We
2 believe, in the last two years, this problem has been
3 studied a little bit more closely, and recently we
4 have been authorized by the Treasury Board to spend
5 funds on the research into the causes of the erosion,
6 and to the extent which navigation contributes to
7 this erosion.

8 There is also an associate committee
9 of Waves and Littoral Transport, which is a committee
10 of the National Research Council, and we are proposing
11 to use the funds made available through the Treasury
12 Board Order in this committee of National Research
13 Council to investigate the extent to which erosion
14 is caused in various places along the river -- not
15 only the St. Lawrence, but the Richelieu and other
16 rivers -- which is caused by waves generated by ships.

17 As I say, this is a fairly recent
18 development, and as yet no field work has been done.
19 We have made investigations as to what personnel might
20 be available at the University of Montreal, McGill
21 University, Laval, to undertake some of the field work
22 and some of the investigations which could establish to
23 some extent the responsibilities in certain areas
24 along the St. Lawrence for erosion by shipping.

25 Q. Would you say that you know that
26 erosion may be caused by waves generated by passing
27 vessels, but you do not know to what extent?

28 A. That is right.

29 Q. Knowing that in the past, can you tell
30 us whether your department has sought the help of other



1 departments in order to regulate the passing of
2 vessels and thereby perhaps reduce the erosion?

3 A. I would have to say No to that be-
4 cause we are a construction agency, and in most cases
5 we do not have anything to do with regulations excepting
6 a few minor Acts which we administrate, but these are
7 not related to the control of shipping.

8 Q. There has been no communication be-
9 tween your department and the Department of Transport
10 with respect to possible control of shipping?

11 A. So far as I am aware, that is correct.
12 There has been no discussion except on an informal
13 basis. I must say that our engineers are in constant
14 communication with the engineering staff of the
15 Department of Transport, and we often discuss mutual
16 problems, but on the official level I would say No.

17 Q. There has been none?

18 A. As far as I am aware.

19 Q. All right, thank you.

20 THE CHAIRMAN: For those who are
21 new this morning, the procedure we have is that we have
22 a list of questions -- it is easier to go this way --
23 and generally our counsel will ask his questions and
24 should you have a question to put on this question
25 also, you do it right after that, and then we pass on
26 to a new subject.

27 MR. LEGG: Thank you, my lord.

28 MR. JACQUES:

29 Q. The second question reads as follows:
30 Measures taken, if any, in order to reduce erosion



1 caused by vessels' wash, St. Lawrence River, Escoumains
2 to Kingston?

3 A. I might say from Montreal upstream
4 to Kingston we have not taken any formal action in so
5 far as construction of remedial works. Remedial
6 works means protection walls, putting various types
7 of rubble walls along the face -- actually I have here
8 a map which I will be pleased to submit. I can pro-
9 vide additional copies if they are required.

10 These indicate that from Montreal to
11 Les Escoumains we have constructed many miles of
12 protection works. The type of wall depends a lot on
13 the type of erosion that we receive and the type of
14 banks. In other words, if you have a rock bank, there
15 is no sense protecting it, but if it is a very friable
16 material and easily eroded, and the wash from vessels
17 is close -- in other words, the navigation channel
18 is close to the shore -- then we have taken action
19 in many places to protect this property from erosion
20 by the construction of a number of different types of
21 protection walls.

22 Q. I should like to file these two
23 plans as Exhibit 1336. They should go together, my
24 lord, because one is sheet 1 of 2 and the other is
25 sheet 2 of 2.

26 THE SECRETARY: Shouldn't this one
27 be Exhibit 1335 since the other one was read into the
28 record?

29 THE CHAIRMAN: We will file the
30 other one in case someone should wish to verify the



1 original.

2 MR. JACQUES: Very well, my lord.
3 Exhibit 1335 is the memo from Counsel for Seaway to
4 Operations Manager, and Exhibit 1336, two plans showing
5 emplacement of remedial works.

6 THE WITNESS: Actually it would be
7 better to say protection works because remedial works
8 have a broader context. It is a protection of the
9 shore by a wall or by putting stone on it to protect
10 it from the action of the waves.
11 Exhibit 1336: Two plans showing protection works (Department
12 MR. JACQUES:

13 Q. I see, sir, that sheet 1 of the
14 two plans contains a diagram showing typical sections
15 of protection works.
16
17
18 -
19
20
21 -
22
23
24
25 -
26
27
28 -
29
30



1 Q. Would you start at the left-hand
2 corner and explain the various parts of protection works
3 and when they are employed? The first one is the
4 SP.

5 A. That is steel sheet pile walls.
6 There is a factor in here of, shall we say, we have
7 to balance cost against benefit. In cases where there
8 is a severe erosion problem and where there is -- as
9 you know, in the St. Lawrence there is a tidal action.
10 You get an action of shore erosion over a fairly wide
11 range of tide. You have to have a large higher
12 wall, of course. Where your water levels are con-
13 stant you can do your protection over a lower ---

14 THE CHAIRMAN: I suppose the erosion
15 is made at the surface level?

16 THE WITNESS: Actually depending on
17 the height of the wave you get a suction that is caused
18 when the wave drops down just as a ship goes by. This
19 sort of sucks the water away from the shore and also
20 pulls the water from the saturated soil out from the
21 banks, which causes a tendency to slough in.

22 THE CHAIRMAN: We have seen that in
23 the water of the ship channel from Montreal to Sorel.
24 It is very narrow there and you can see the suction
25 there.

26 THE WITNESS: That is right. These
27 places are where more severe erosion takes place.

28 The design of these varies quite a
29 bit. The steel sheet pile wall is, of course, a
30 fairly expensive type of wall and would only be carried



1 out where you have, shall we say, fairly severe
2 erosion and valuable property. In the same category
3 is the concrete reinforced piling wall, which depends
4 a lot on the situation.

5 MR. JACQUES:

6 Q. Indicated as CP on the sheet?

7 A. Yes. You cannot drive a concrete
8 pile wall or a steel sheet pile wall unless, shall we
9 say, the rock surface is considerably below the level,
10 so that you get enough penetration to maintain stability
11 of the steel sheet pile wall or reinforced concrete
12 piling wall.

13 I might say that these two types of
14 wall are not as common as the concrete wall, which is
15 a gravity type section. In other words, it can stay
16 in place by the mere fact of its own weight. It is
17 stable against the action of the water on one side and
18 against the push of the soil on the other side. That
19 is a vertical concrete wall with a tapered face, which
20 gives you a stable concrete structure. It is a
21 gravity-type structure.

22 The next type of wall is what we
23 call a concrete revetment wall. In other words, it
24 is just concrete blocks placed on a slope. In other
25 words, the waves run up the shore and down and this
26 is used in places where you have a fairly flat base.
27 As a matter of fact it is used in the same place or
28 in the same type of situation where you have what
29 we call a rip rap wall, which is just heavy stones,
30 large stones placed on the wall to protect it and



1 absorb the energy of the waves as they come in.

2 The concrete gravity wall is also
3 used in the same place as stone masonry walls, which
4 are built of heavy stone in the same kind of section
5 as the concrete wall, but they are cemented together.
6 In other words, they are like bricks piled one on top
7 of another, but they are of heavy stones. This is
8 what we call a masonry wall.

9 I mentioned the rip rap wall.
10 Actually you could have a rip rap wall which is covered
11 over with concrete -- in other words, a light layer of
12 concrete, which more or less prevents the water from
13 seeping into the stone. That is a rip rap wall
14 faced with a concrete revetment.

15 In other cases where you have a
16 relatively high bank which is sloughing off the best
17 method is usually just piling up or turning over with
18 heavy stones. In other words this is what we call an
19 armour stone wall, which, as I say, will absorb the
20 energy of the waves as they come in.

21 The next type they have listed here
22 is a wooden palisade.. This is a place where it is not
23 a very high bank but it has a tendency to slough off
24 and it has a very, shall we say, soft base. What is
25 done here is that you put up a sort of a wooden wall
26 along the front braced backward to timber piles and
27 this is all filled in. Then in the front you throw
28 in just some rubble stone, which of course here again
29 absorbs the energy of the waves and prevents the
30 erosion of the face of the wall, which would undermine



1 the timber type palisade.

2 Now we come to the cribwork wall.
3 Here again it is a question of a series of timber cribs
4 and this is used where your foundation conditions are
5 not, shall we say, satisfactory for a concrete wall.
6 You then put in a timber crib and fill it with smaller
7 stones so that it becomes stable. There are many
8 places along the St. Lawrence where we have used this.

9 There is a patented type of wall --
10 they are gabions. These are steel wire baskets and
11 it is listed here as SB. These are large baskets;
12 I suppose they are about four feet long by two feet
13 by two feet. They are just filled with stone on the
14 site and just piled one on top of the other. This is a
15 very useful type of protection where you have not got
16 large stones. In other words, you use this where
17 larger stones are not available. You can use smaller
18 stones in the wired baskets, which keep the stones in
19 place and protects them against, shall we say,
20 sloughing off.

21 Although this is not in the terms
22 of reference, the best example of this is in the
23 Amherstburg Channel up above the area that we are
24 interested in. We have tried this down below and
25 these were not too successful as a matter of fact.

26 Generally speaking these are four
27 examples, but there are modifications in these designs
28 which are used depending on the economics, the im-
29 portance of the structure to be protected or the
30 property to be protected.



1 Q. And this exhibit shows the location
2 and type of each protection works?

3 A. That is right.

4 Q. Which stem from Varennes top ---

5 A. Les Escoumains.

6 Q. And the last protection work on the
7 river would be Pointe au Pic?

8 A. That is right.

9 Q. So in the choice of your protection
10 works you are guided by financial considerations for one
11 thing and the nature of the work to be protected and
12 also

13 the nature of the bank. It might not necessarily
14 have any reference to the type of erosion, whether it
15 is natural or caused by vessels?

16 A. No. Once we have determined that
17 the erosion is partially or could be partially
18 attributed to navigation, this is all -- although
19 actually another factor, of course, is the range of
20 the water levels in that particular location.

21 Q. I see. If you have to venture a
22 guess, how important is the factor of erosion caused
23 by the wash of vessels?

24 A. Well, this, of course, depends quite
25 a bit on, shall we say, the proximity of the navigation
26 channel. There are certain places in the St. Lawrence
27 particularly, shall we say, just a few miles downstream
28 from Montreal and also close to Quebec City where
29 the wash of the navigation is considered to be a
30 fairly serious problem. There are many other places,



1 however, where navigation, although we have constructed
2 walls, is, shall I say, a contributing factor, but is
3 not a major factor.

4 MR. JACQUES: Thank you.

5
6 CROSS-EXAMINATION BY MR. LALONDE:

7 Q. Is there any particular reason why
8 no action has been taken between Montreal and Kingston?

9 A. No. I think, as far as I am aware
10 of the facts, we never undertake the construction of
11 protection walls unless we receive a request to do so
12 and in so far as I know we have never received any
13 requests -- I should not say "never" but certainly we
14 have not in my short term of office received any
15 serious requests for protection between, shall we say,
16 Kingston and Montreal. Not only that, a lot of the
17 navigation, of course, in there is in artificial
18 channels, you know.

19 Q. When you refer to requests, these
20 are requests from outside people or from other depart-
21 ments also?

22 A. We occasionally receive requests
23 from other departments of government but mostly we get
24 requests from municipalities, from private individuals
25 and members of parliament.

26 Q. What determines your order of priority
27 between various walls, to build the various works you
28 undertake?

29 A. The priority?

30 Q. I imagine you do not have unlimited



1 funds?

2 A. No; this is one major factor. We
3 take care of these protection walls in two ways. We
4 have a general vote -- say, a general part of a new
5 vote. The new vote structure is different. But
6 we have a general sub-allotment which is usually limited
7 to, I think it is, \$550,000 a year, which is not only
8 to carry out maintenance but also to construct new
9 remedial works under a cost of \$40,000 or \$50,000.
10 Anything over \$50,000 has to be included in what we
11 call the special items and listed under our estimates.
12 These are usually projects which are of a major nature.

13 First of all let me explain that in
14 this programme of remedial works we do have a plan. In
15 certain areas we know there is serious erosion and
16 knowing the limited amount of funds we have we have
17 planned over a period of four or five years the stages
18 we should undertake in this particular area.

19 As I say, recently we have changed
20 our pattern. We have, as I say, gone into this
21 question of research. We have also established,
22 under the direction of Treasury Board, a committee of
23 shore erosion and protection, which is to screen all
24 requests for protection works and to evaluate the,
25 shall we say, federal responsibility.

26 Now in some cases where there is
27 erosion and it is not a major factor the federal
28 government has in the past contributed to protection
29 works which have been undertaken either by provincial
30 governments or private concerns or municipalities.



1 The priorities are usually established
2 on, shall we say, a judgment basis because we do not
3 have any research to back us up -- the extent to which
4 the damage is caused by navigation and the importance
5 of the location. In other words, there may be a
6 serious erosion problem where there is no real value
7 to the property and therefore we would not consider
8 spending money in this place. But in municipalities
9 where there are heavily built up areas, we give priori-
10 ties to these.

11 Q. Do I understand that you have no
12 responsibilities concerning erosion resulting from
13 natural causes, like the effect of the tide or move-
14 ment of the ice; is that correct?

15 A. That is correct, yes. We take
16 no responsibility. This is a provincial responsibi-
17 lity. The protection of property is a provincial
18 responsibility and when there are no mitigating
19 factors like navigation or the presence of a structure
20 which has been built by a government agency, then we
21 do not assume any responsibility for it.

22 THE SECRETARY: May it please your
23 lordship, do I take it from this reply to the question
24 just put to you that the various protection works that
25 you have described along the St. Lawrence between Les
26 Escoumains and Montreal were and are being built by
27 the Department of Public Works strictly to prevent
28 or reduce erosion due to navigation?

29 THE WITNESS: That is the purpose;
30 that is correct.



1 THE SECRETARY: This is a continuing
2 programme, I take it?

3 THE WITNESS: Yes, it is -- if you
4 call it a programme. Actually there are changes to
5 your planning. There are priorities. You get an
6 urgent call, an urgent application where the situation
7 may not have become evident, and therefore you cannot
8 plan for it too much.

9 This is why we have what we call a
10 general vote. The major items in the Estimates are
11 based on a plan. I think that you can say that in
12 the majority of cases the erosion which we protect
13 against is ostensibly caused in some respects by
14 navigation.

15 The other factor is that if there
16 is a structure -- in other words, if we have built a
17 structure like a wharf, which projects out into the
18 water and which has in some way deflected currents
19 and caused erosion in some other place, we assume the
20 responsibility to protect the shore from this damage.

21 THE SECRETARY: I take it that in
22 every case you make an analysis or a study in any case
23 of complaints of erosion? You make a specific study
24 to determine the extent to which this particular
25 erosion is due to navigation as opposed to natural
26 causes?

27 THE WITNESS: Well, that is not
28 precisely what we do. I would not like to put any
29 percentage on it. If navigation is a contributing
30 factor of some consequence to the erosion.



1 THE SECRETARY: I see.

2 THE WITNESS: We carry out remedial
3 works and now what this new committee is trying to do
4 and trying to establish and the research we
5 are proposing to do is to establish the extent to
6 which navigation is a factor. Now as you know,
7 there is ice running off from the land; there is
8 variation of the tide; there are wind waves; there
9 are all sorts of other factors which cause erosion.
10 Certainly navigation waves in some cases are a very
11 minor factor but when our investigations indicate
12 that navigation is a contributing factor, in the past
13 we have given consideration to these in the construc-
14 tion of a wall in this location.

15
16 -

17
18
19 -

20
21
22
23 -

24
25
26 -



1 THE SECRETARY: I take it that the
2 expenditures by the Department of Public Works in
3 connection with these works are a matter of public
4 knowledge?

5 THE WITNESS: Oh, yes. It is in
6 the Public Accounts.

7 THE SECRETARY: I am just wondering
8 if you would remember what your budget figure was for
9 the last two years, or this year, for instance?

10 THE WITNESS: We have a question
11 here ---

12 THE SECRETARY: Pardon me.

13 THE WITNESS: I don't know whether
14 it is covered or not.

15 THE SECRETARY: I withdraw the
16 question.

17 MR. JACQUES:

18 Q. Now, with respect to Question No. 3:
19 what is the approximate amount of money spent on works
20 designed to prevent the above erosion during the last
21 five years?

22 A. According to the records we have
23 spent over one and a half million dollars downstream
24 from Batiscan to Les Escoumains and a further two
25 million dollars from Varennes down to Ste. Anne de la
26 Perade.

27 Q. That is for the past five years?

28 A. Yes, we have spent more than three
29 and a half million there on protectional works for
30 the St. Lawrence River in the last five years.



1 Q. Presumably a great deal of that
2 would be attributable to erosion caused by vessels'
3 wash?

4 A. This is our justification for spend-
5 ing this money.

6 Q. So if your guess is correct it
7 would be in the main erosion caused by vessels?

8 A. That is right.

9 THE CHAIRMAN: There must have been
10 erosion before the department took over in the last
11 two hundred years?

12 THE WITNESS: Yes. Actually I think
13 by and large the worst places have been taken care of
14 by walls in the last five years.

15 THE CHAIRMAN: But is there any
16 warning to somebody who would buy a shore lot that they
17 should expect erosion?

18 THE WITNESS: As a matter of fact
19 we recently -- not recently, two years ago we suggested
20 to the Province of Quebec, the provincial government,
21 that some action should be taken to zone the property
22 offshores so that people who were anticipating building
23 in these particular areas, where there was a serious
24 erosion problem, would be aware of this and would not
25 expect financial assistance from the federal government.

26 MR. JACQUES:

27 Q. Have you got with you a breakdown
28 year by year for the last five years?

29 A. No, I am sorry, I have not. You
30 could relate this, divide it by five. That is about



1 what it comes to. Our budgetary process is that
2 we are allowed so much money and if it gets over so
3 much ---

4 Q. You just don't build anything?

5 A. We don't build it; it is postponed
6 so if you set three and a half million for five years
7 I suppose it would be about three-quarters of a million
8 dollars a year. I have a small correction. There
9 are some items in there which would be due to the
10 federal government, erosion caused by federal govern-
11 ment structures so you could maybe chop off \$75,000
12 or \$100,000 so it would be in a year from \$700,000
13 to \$1,000,000 or so on remedial works due to naviga-
14 tion.

15 Most of this money would be spent in
16 protection against navigation.

17 Q. Now, coming to Question No. 4 ---

18 THE CHAIRMAN: Excuse me before you
19 leave that. Erosion is caused mainly by waves created
20 by the wake of the ships and so on. Do you have any-
21 thing to do with speed control?

22 THE WITNESS: No, that is the
23 responsibility of the Department of Transport. We
24 have no jurisdiction over a vessel's speed.

25 THE CHAIRMAN: When you feel that
26 a special area is much more likely than any other one
27 to have an erosion problem of that type, what do you
28 do? Do you reprimand?

29 THE WITNESS: No, we do not.

30 THE CHAIRMAN: How is the Department



1 of Transport going to know about that, because we have
2 seen that in some places there are speed limits?

3 THE WITNESS: I think that -- I am
4 sort of hazarding a guess. I think the speed limits
5 which have been put on by the Department of Transport
6 are not related to shore erosion as such. They are
7 more related to damage to wharf structures, ships
8 tied to wharves and that sort of thing.

9 I think generally speaking outside
10 of municipalities -- I am talking about places like
11 Montreal or Sorel or Three Rivers -- if you were to --
12 I am just expressing a personal opinion now -- if you
13 were to start restricting the speed of vessels every
14 time that you got to places where there might be
15 shore erosion it would be a pretty serious restriction,
16 if you were to reduce their speed to the point where
17 they did not cause any damage.

18 THE CHAIRMAN: You are not the one
19 responsible for the speed of vessels?

20 THE WITNESS: We have nothing to
21 do with it.

22 MR. JACQUES:

23 Q. Question No. 4: explain fully the
24 degree of reliability and the period of validity of
25 soundings taken by the Department of Public Works.
26 We were generally given the impression that they
27 take soundings today and if it shows 25 feet all the
28 evidence would show that tomorrow most likely it would
29 still be 25 feet?

30 A. I think the general impression is



1 correct.

2 One of the reasons for this is that
3 the dredging which we do is carried on in such a
4 multiple of different circumstances. In other words,
5 if you carry out rock soundings you could probably
6 say, without any trouble at all, after the first
7 survey was made and if there is no sedimentation in
8 that particular area it would maintain its depth ad
9 infinitum but there are certain places, for example,
10 if you want to take the Fraser River where we carry
11 out dredging throughout the whole year, almost through-
12 out the whole year except in high flood periods.
13 There is a continual movement of the silt and sand
14 along the bottom of the river. You take a sounding
15 today and you can go back there tomorrow and it may
16 be different.

17 This also occurs in -- I do not know
18 whether your terms of reference concern the smaller
19 harbours on the east coast or not ---

20 Q. Yes, it does.

21 A. In these places you could have a storm
22 the following day and as a matter of fact this often
23 happens. We have to go back in to dredge a channel
24 and you have a storm and the sand fills in so that the
25 channel is filled in again. The only thing you can do
26 is to go back in there and do it again or to dredge an
27 extra amount to take care of this and we feel that we
28 cannot justifiably say that we take a sounding today
29 and that sounding will be the same tomorrow.

30 Q. Not even based on years of experience



1 in dredging of the same area where year after year
2 you have pulled out the same quantity without failure?

3 A. Well, I think the point here is
4 that ---

5 Q. After ten years might you not be
6 able to say that there is sedimentation of so many
7 inches a year?

8 A. I suppose we could probably say in
9 terms of experience that this channel depth, as we
10 were dredging it, would be say 20 feet that we would
11 expect at the end of the season it would be 17 feet.
12 But the thing is that there are so many variations in
13 weather conditions in the various places. You get
14 variations from year to year in the amount of sedimen-
15 tation that you get in these various channels so we
16 feel that the people who are going to use these
17 channels should become familiar with the various cir-
18 cumstances and when we establish a depth, this is it
19 at the time that the survey was made.

20 Now, we do not have the funds avail-
21 able to carry out continuous surveys. In some areas
22 this would be desirable, I think, in order to maintain
23 a constant depth.

24 As a matter of fact I think the St.
25 Lawrence Ship Channel -- I am speaking out of my own
26 depth here -- have a constant survey staff, survey
27 vessels which do surveys in the main St. Lawrence, I
28 understand.

29 As far as ours are concerned, being,
30 shall I say, a construction agency, we carry out



1 dredging. We say that as far as we are concerned the
2 depth was so and so at such and such a date. We
3 will not guarantee this depth as maintained for even
4 the next day.

5 Q. Without guaranteeing it. I wasn't
6 asking about guaranteeing. I said the degree of relia-
7 bility and the period of validity of soundings?

8 A. Well, I say again this depends a
9 lot on the location.

10 Q. Let us split the question into two.
11 The degree of reliability. When you take soundings,
12 you mark your chart on your field survey. Is that
13 an accurate figure or is that some approximation?

14 A. I would say give or take six inches
15 it is a reliable sounding there.

16 Q. So your figure would be roughly within
17 six inches?

18 A. Of the depth at the time the soundings
19 were taken.

20 Q. Now, the period of validity of the
21 soundings we have just discussed at some length. Even
22 based on years of experience the evidence we had was
23 to the effect in most areas it was pretty constant.
24 It was dredged approximately the same time in the
25 same place every year or every two years or three
26 years or five years. Even in the face of that ex-
27 perience, your department would not say that its
28 soundings are reliable, subject to an increase of so
29 much per year?

30 A. Well, I think the point here is that



1 if, shall we say, an engineering agency were prepared
2 to say that at such and such a time these things
3 were charted.

4 Now, if anybody, a ship's captain,
5 or a pilot wished to consult our district engineer
6 about a particular channel, he would be quite pleased,
7 I am sure, to give him information about the vagaries
8 of the particular location with which he is concerned.

9 For example, I understand that the
10 people on the Fraser River who would be using this
11 channel, for many years did consult our district
12 office and in some of the other places, particularly
13 on the east coast, when a large vessel is coming into
14 Bathurst or some other place where channel depths may
15 be varying quite considerably, they do get advice
16 from our engineering staff.

17 We do not publish this information
18 but it is available if people want it.

19 THE CHAIRMAN: If I may sort of sum
20 it all up. There are two factors in this. One is
21 it is normal runoff and where this would be constant
22 it may also have some variable factors such as a
23 sudden freshet or a sudden runoff or a storm blown
24 off the sea causing waves and so on. After that
25 anything might happen. It is like snowdrifts in
26 winter.

27 THE WITNESS: That is true.

28 THE CHAIRMAN: One day you have a
29 big snowstorm and the next day you have a wind coming
30 from the other side so these are very variable factors



1 which you cannot tell. The only way you could
2 guarantee it would be to check every time there is such
3 an unusual factor coming up.

4 THE WITNESS: That is right.

5 MR. LALONDE: Does your department
6 take the actual soundings?

7 THE WITNESS: Yes, our engineering
8 and field staff do take the soundings.

9 MR. LALONDE: Is that carried on
10 by your own ships? Do you own ships for that purpose?

11 THE WITNESS: Yes, we do and in
12 other cases we hire vessels and do have portable equip-
13 ment. In some cases it is a portable echo sounder
14 and in other cases it is sounding by the usual lead
15 lines, which is a little passe at the minute.

16 MR. LALONDE: On the St. Lawrence
17 River between Montreal and Les Escoumains, what do
18 you use?

19 THE WITNESS: As a matter of fact the
20 maintenance of the main channel of the St. Lawrence
21 River from Montreal downstream is the responsibility
22 of the Department of Transport. We are not concerned
23 with it.

24 We are concerned with the channels
25 into the various harbours but as far as the main channel
26 is concerned the St. Lawrence Ship Channel people do
27 have available survey vessels which carry out this
28 work.

29 MR. LALONDE: But the soundings are
30 taken by these people and not by you?



1 THE WITNESS: In the main St. Lawrence.
2 Our own operations basically, we use our own staff and
3 our own vessels.

4 MR. LALONDE: Did I understand you
5 to say that you have nothing to do with the soundings
6 in the channel at all? For instance, the South
7 Channel or the North Channel of the St. Lawrence River
8 below Quebec?

9 THE WITNESS: That is correct.

10 MR. LALONDE: You only do this in
11 the harbours when you are required to do so?

12 THE WITNESS: That is correct.

13 MR. LANGLOIS: Are the soundings
14 indicated on the charts actually the figure you get
15 from your depth sounder or has that taken into account
16 any margin of error of the instrument?

17 THE WITNESS: It has to be adjusted
18 to the water level. This is referred to as specific
19 datum. For example, on Lake Ontario where it is 248
20 that is related to this particular level. If it
21 should be the level happens to be 248, which it is
22 not right now, you add 4 feet to the surveys. This
23 would give you the amount of water you would have.
24 In tidal reaches this refers to the ordinary low water.

25 MR. LANGLOIS: How about the instru-
26 ment itself? Do you give the actual figure or do
27 you subtract if you realize your instrument is roughly
28 within six inches or one foot; do you subtract that
29 error?

30 THE WITNESS: No. Actually what I am



1 saying is it could be plus or minus six inches.

2 This is an error which you cannot --
3 it is not a human or a machine error. It is caused
4 by the difference in, shall we say, the physical
5 conditions. In other words, you might have an in-
6 crease of levels due to wind fetch or something like
7 this or if there is a movement by vessels by any
8 wave action, you have to estimate a certain amount
9 of leeway or adjustments, shall we say? You cannot
10 tell whether it is plus or minus.

11 MR. JACQUES: I believe you were
12 not directed to answer Question No. 5.

13 A. That is correct.

14 MR. JACQUES: Thank you, sir.

15 THE CHAIRMAN: Thank you, Mr. Hurst.

16 ---Witness retires.
17
18
19
20
21
22
23
24
25
26
27
28
29
30



1 MR. LEGG: My lord and gentlemen,
2 I am here to renew my submissions on behalf of Crown
3 Zellerbach Building Materials Limited in connection
4 with the Fraser River railway bridge.

5 Before I do that, I was asked by Mr.
6 Watson Hunter who appeared as counsel before this
7 Commission at its hearings in New Westminster in March
8 of 1963 on behalf of the New Westminster Harbour
9 Commissioners, to file a brief on behalf of the New
10 Westminster Chamber of Commerce, and I have copies of
11 that brief here. With your permission, my lord, I
12 will file it as an exhibit if it has not already been
13 filed.

14 ---EXHIBIT NO. 1337: Brief of New Westminster
15 Chamber of Commerce.

16
17 MR. LEGG: I don't know whether you
18 would wish me, my lord, to read the contents of this
19 into the record.

20 THE CHAIRMAN: No, it is not neces-
21 sary.

22 MR. LEGG: It does deal with the
23 Fraser River railway bridge.

24 THE CHAIRMAN: But no facts; it is
25 argument only?

26 MR. LEGG: It refers to certain
27 factual matters.

28 THE CHAIRMAN: Which were a subject
29 before this Commission?

30 MR. LEGG: Well, in part they were.
In part they were referred to by Colonel Swan who



1 is here this morning to give evidence.

2 THE CHAIRMAN: I see.

3 MR. LEGG: The material which I
4 would like to file with the Commission deals with another
5 bridge across the Fraser River. It is the Port Mann
6 bridge, and it is upstream of the Fraser River railway
7 bridge, a distance of approximately four miles.

8 THE CHAIRMAN: This was the one that
9 became a problem when there was no longer a problem?

10 MR. LEGG: The purpose in filing
11 evidence about the dimensions of this bridge is to
12 draw to the attention of the Commission what care was
13 taken to build a bridge which would not impede
14 navigation upstream of the Fraser River railway
15 bridge, and when one considers the bridge, the
16 Pattullo bridge which is of course 250 feet downstream
17 and the construction of the Port Mann bridge, the
18 bottleneck which the Fraser River railway bridge
19 causes to navigation on the Fraser River becomes all
20 the more obvious than it was by inspection.

21 THE CHAIRMAN: This answers my
22 query.

23 MR. LEGG: That is the purpose of
24 filing this material, my lord. I have three copies
25 only.

26 ---EXHIBIT NO. 1338: Documents showing location,
27 dimensions, etc. of Trans-
28 Canada Bridge, Port Mann, B.C.

29 MR. LEGG: I would just like to refer
30 very briefly to what is contained in Exhibit 1338.



1 There is a paragraph on the new Port Mann bridge. It
2 is referred to as Exhibit 1 within the small folder
3 which contains Exhibit 1338. Exhibit No. 2, which
4 is a plan to demonstrate to the members of the Com-
5 mission the dimensions of that bridge, and I do draw
6 to the Commission's attention that the height above the
7 level of the river is 145 feet and the width of the
8 bridge is 800 feet in sharp contrast to the total
9 width of the Fraser River railway bridge of 372 feet.

10 Your lordship will remember that the
11 middle tier of the Fraser River railway bridge stands
12 in the centre of the stream, and the distance between
13 the middle pier and the north and south piers
14 respectively is approximately 171 feet.

15 The other interesting feature to
16 this exhibit, my lord, is set out in Exhibit No. 4
17 where there is a recommendation from the New Westminster
18 Pilotage Authority regarding the dimensions of the
19 Port Mann bridge, and they recommended that the
20 wording of the letter which is in that exhibit: "Of the
21 three proposed locations, the pilot would recommend
22 the most easterly one, Tree Island, and would
23 recommend, as in the past, that as river traffic
24 is increasing yearly, no bridge, other than a high
25 level one with width equal to the full width of the
26 usable and deep water channel, should be considered.
27 A 1200-foot opening would leave the deep channel
28 clear."

29 In other words, my lord, the Port
30 Mann bridge has been constructed with a view to not



1 impeding deep sea traffic in the Fraser River, and with
2 that purpose in mind Exhibit 1338 is filed.

3 Now, as your lordship is aware, my
4 clients, through its Counsel, submitted a certain question-
5 naire to the Department of Public Works and I understand
6 from Mr. Nadeau that the Commission has kindly arranged
7 for a witness to be called for the department to answer
8 questions that may arise out of those written answers.

9 THE CHAIRMAN: I wish to say here
10 we have had complete cooperation from the Department of
11 Public Works in answering that questionnaire, and we
12 are quite grateful because it is a help to shorten
13 the hearings we are going to have by providing before-
14 hand the necessary material.

15 MR. LEGG: I don't know whether it
16 would be in order for me to ask that Mr. Millar, I
17 believe is the gentleman's name, be called to the
18 witness box.

19
20 H. M. MILLAR, sworn

21 DIRECT EXAMINATION BY MR. JACQUES:

22 Q. What is your occupation?

23 A. I, sir, am Chief of the Technical
24 Coordination and Administration Division of the
25 Development Engineering Branch of the Department of
26 Public Works.

27 Q. How long have you occupied that
28 position?

29 A. Since it was created, which is about
30 three years, but prior to that I was doing the same



1 job.

2 Q. Under a different hat?

3 A. Under a different hat.

4 Q. Are you an engineer by profession?

5 A. I am. May I add a point here?

6 Q. Yes.

7 A. I think that the Commission knows that

8 both I and Mr. McLellan are here to answer any pos-

9 sible questions on this point. I personally have no

10 direct knowledge of the bridge. I have never seen

11 it. On the other hand, Mr. McLellan has served

12 in Vancouver and is quite aware from his experience

13 there of the details of the bridge.

14 Q. You mean to say you have never been
15 to B. C.?

16 A. I have been to B. C., and I have
17 been over the bridge in a train at night.

18 THE CHAIRMAN: Would it be prefer-
19 able to have Mr. McLellan ?

20 THE WITNESS: Well, on matters of
21 policy, your lordship, I am here to represent the
22 department, and possibly as the department was asked
23 questions, to start things I might make a statement.

24 THE CHAIRMAN: When you think that
25 Mr. McLellan would be the right witness to answer a
26 question, just say so.

27 THE WITNESS: I will say so, sir.

28 MR. JACQUES:

29 Q. With respect to Question No. 5 put
30 to your department by the Commission, would you prefer



1 Mr. McLellan to answer it?

2 A. I should like to make a statement on
3 the question filed, yes.

4 Q. I might read Question No. 5 for
5 the record: With respect to Question 7(b) and (c)
6 of Crown Zellerbach questionnaire, the department
7 answered that "to date it has not been established
8 that the navigational requirements justify the conver-
9 sion to a lift span". Explain how this conclusion
10 was reached, stating nature and extent of evidence in
11 its support.

12 Would it help if I read Question
13 No. 7, paragraphs (b) and (c) of the Crown Zellerbach
14 questionnaire? It reads as follows: Has the
15 Department of Public Works investigated the problem
16 of altering the Fraser River railway bridge from a
17 swing span to a lift span bridge? If this problem
18 has been investigated, (b) what is the information
19 of the Department of Public Works on proceeding with
20 conversion to a lift span bridge and (c) if the
21 department has not decided to proceed with the con-
22 version to lift span bridge, what is the reason for
23 this?

24 A. Well, in our reply we gave a very
25 brief one, and we regret if because of its brevity,
26 was in any way misleading, and we welcome the oppor-
27 tunity to elaborate on that information now.

28 First of all, we do not suggest the
29 bridge is not a hazard to navigation. This we
30 accept.



1 Q. You accept that the bridge is a
2 hazard to navigation?

3 A. We do. Any structure we say
4 placed in the waterway must constitute a hazard in
5 some degree. The difficulty is in determining the
6 degree of the hazard and its importance bearing in
7 mind other factors must bear on a problem such as
8 this.

9 Now, in the case of the New
10 Westminster bridge I understand, and I might say I
11 became interested in this bridge in 1961 when the
12 department was given a copy of a brief prepared by the
13 New Westminster Harbour Commissioners and asked to
14 comment on it, and I was deputed by the department to
15 search the files and prepare background information.

16 In that search it appeared that as
17 long ago as 1889 objections were raised to the con-
18 struction of this swing bridge because it would be
19 an obstacle to navigation. Nevertheless the bridge
20 was built so that it must be assumed that the disad-
21 vantages presented by the obstacle to navigation
22 were outweighed by the corresponding advantages.

23 Then in 1934, as I am sure you are
24 all aware, at the public hearings held under the
25 Navigable Waters Protection Act, evidence was given
26 by marine interests which were to establish the con-
27 struction of the neighbouring Pattullo bridge were
28 increasing the difficulty of navigation.

29 Later in 1936 under P.C. Order 153,
30 we read evidence in paragraph 26, that the Chief



1 Engineer of the department at the time was faced with
2 deciding between the disadvantages accruing from the
3 increase in navigational difficulties consequent upon
4 the construction of the bridge and the need to provide
5 continued access to Vancouver by the use of railways
6 at the time using the bridge.

7 Q. Which paragraph do you refer to?

8 A. Is it not paragraph 26?

9 MR. JACQUES: We have the Order in
10 Council here.

11 MR. LEGG: That is Exhibit 164.

12 MR. JACQUES: I can only find
13 eleven paragraphs.

14 THE WITNESS: May I read this?

15 MR. JACQUES: I would ask the witness
16 to file P.C. 153, complete with the introductory part
17 from which the witness was reading a moment ago.
18 Exhibit 164, my lord, contains only the conclusions
19 of the Order in Council.

20 MR. GARON: I think we have no
21 objection to putting in the P.C. order but only for
22 the information of the Commission.

23 THE CHAIRMAN: Isn't that a public
24 document.

25 MR. LEGG: I went to great pains
26 to get a certified copy of this P.C. 153. I had
27 great difficulty in getting a certified copy, but I
28 did file it as Exhibit 164 for the Commission.

29 THE CHAIRMAN: So it is already
30 there?



1 MR. LEGG: But the witness is refer-
2 ring to something that goes beyond the ambit of the
3 Privy Council Order, referring to paragraph 26 of some
4 document he has on the file, which presumably is
5 explanatory of something contained in the conclusions
6 set out in the Privy Council Order.

7 I would be in some difficulty in
8 asking questions if I could not see the document.
9 If the witness, or if the department proposes only
10 to file it for the purposes of the Commission it is
11 difficult to ask any questions on it.

12 THE CHAIRMAN: What is the nature
13 of that document? I think we will take this oppor-
14 tunity, while counsel are discussing it and try to find
15 out the nature of the document, to adjourn for ten
16 minutes.

17 ---Short recess.
18
19
20 -
21
22
23 -
24
25
26 -
27
28
29 -
30



1 MR. JACQUES: The order-in-council
2 which was the subject of a heated debate before we
3 adjourned ---

4 THE CHAIRMAN: Was it?

5 MR. JACQUES: My lord, has been
6 already filed as Exhibit 164.

7 MR. GARON: So I withdraw my objection,
8 my lord.

9 MR. JACQUES:

10 Q. Would you continue to answer the
11 questions, please?

12 A. Well, sir, when we adjourned we left
13 the chief engineer of some thirty years ago faced with
14 a difficult decision, and I will just repeat it. The
15 chief engineer at the time was faced with deciding
16 between the possibilities accruing from the increase
17 in navigational difficulties consequent to the destruc-
18 of the Pattullo bridge and the need to provide con-
19 tinued access by the CNR to Vancouver. We also note
20 that on his recommendation the government of the day
21 chose to build the bridge and to accept the increased
22 navigational difficulties which would ensue.

23 However, with a view to ameliorating
24 these difficulties should circumstances warrant it will
25 be remembered that Condition 10 of the same P.C.
26 offered the province two alternatives. The first was
27 to install a lift span in the New Westminster bridge
28 and the second was to remove the road bridge section
29 of the New Westminster bridge.

30 In 1939 we were informed that the



1 second alternative was adopted by the province. That
2 is namely that the highway bridge be removed and the
3 lift bridge was not installed.

4 MR. LEGG: I am sorry, my lord; the
5 witness referred to and I caught his words "Condition
6 10". I am not sure what Mr. Millar was referring to.

7 THE WITNESS: I have here on page 9---

8 MR. JACQUES: Paragraph 10 of the
9 conclusions of P.C. 153 at page 9.

10 Q. Yes, please.

11 A. At the same time; that is, at the
12 same period, clause 13 of the agreement between the
13 Dominion and the province introduced a waiting period
14 of ten years during which it was to be determined
15 whether in fact a lift span could be justified.

16 Q. Just one moment; you say Clause 13
17 of the agreement?

18 A. Between the Province of British
19 Columbia and the Dominion.

20 MR. JACQUES: The agreement, my lord,
21 is Exhibit 193.

22 THE WITNESS: We also know that
23 within the ten-year waiting period between 1939 and
24 1949 the lift span was not installed and it would seem
25 to follow that sufficient evidence to justify its
26 installation was not produced, bearing in mind -- and
27 this is an important qualification -- bearing in mind
28 all the other factors which related to the problem.

29 Well, the present position of the
30 department, I think I may say, is this. As I said at



1 the beginning, it accepts that the railway bridge does
2 present a hazard to navigation. However, it cannot
3 see that at present there is evidence of any sub-
4 stantial change in the degree of this hazard suf-
5 ficient to justify any change in existing arrangements
6 with the railway crossing.

7 COMMISSIONER SMITH: My lord, I
8 would like to ask the witness a question here for
9 clarification in my own mind.

10 I have not got the document in front
11 of me, but my understanding is that in 1947, I think
12 it was, the department engaged Dr. Pratley, a con-
13 sulting engineer.

14 THE WITNESS: That is correct.

15 COMMISSIONER SMITH: To make a survey
16 and investigation, and his report was rejecting the
17 lift span, and he gave his reasons.

18 THE WITNESS: That is correct, sir.

19 COMMISSIONER SMITH: That is seventeen
20 years ago; I think it was 1946 and 1947?

21 THE WITNESS: Yes, sir.

22 COMMISSIONER SMITH: Is there any
23 further elaboration on Dr. Pratley's report except
24 what is contained in the documents that the department
25 has submitted?

26 THE WITNESS: Not as far as the
27 department is concerned, sir. The department has
28 carried out no further investigation itself.

29 COMMISSIONER SMITH: It was dropped
30 after his report was received?



1 THE WITNESS: That is correct, sir;
2 that is my understanding.

3 COMMISSIONER SMITH: Thank you.

4 MR. JACQUES:

5 Q. Did I understand correctly when you
6 said that your department was of the opinion that the
7 hazards to navigation had not increased since the
8 bridge was built?

9 A. We have not said that they have not
10 increased, sir. What we have said is that we have
11 not been provided with evidence of any substantial
12 change in the navigational hazards and sufficient to
13 warrant the installation or the effort to install a
14 lift span, bearing all other factors in mind.

15 THE CHAIRMAN: Excuse me -- you
16 have not been furnished with new evidence up to when?

17 THE WITNESS: The evidence of which
18 I am aware dates approximately to the receipt of the
19 brief of the New Westminster Harbour Commissioners.
20 I think I am right in saying that there have been other
21 representations made since then.

22 THE CHAIRMAN: Before us.

23 THE WITNESS: But as far as I am
24 aware we have not received copies of these briefs --
25 or we have not studied them.

26 THE CHAIRMAN: Yes.

27 THE WITNESS: And we are awaiting
28 evidence which is produced before this Commission, sir.

29 THE CHAIRMAN: So the New Westminster
30 brief you are talking about which was addressed to you



1 was in 1961?

2 THE WITNESS: Yes; it was addressed
3 to the Department of Transport. We were furnished
4 with copies by the Department of Transport.

5 THE CHAIRMAN: So that was the
6 beginning of the bridge aft ships problem?

7 THE WITNESS: Bridge aft ships, I
8 think I am right in saying, appeared a little bit later.

9 THE CHAIRMAN: Bridge aft ships --
10 of course, you know that ships are getting bigger and
11 bigger and manoeuvrability is more difficult. Then,
12 of course, the nature of the hazard would change
13 there?

14 THE WITNESS: That is correct.
15 We are aware of the questions being raised because of
16 the bridge aft ships and I can say that an interdepart-
17 mental committee has been formed to review matters
18 arising from this.

19 MR. JACQUES:

20 Q. You say that prior to 1961 you had
21 received no evidence of increased navigational diffi-
22 culties?

23 A. That is correct. I must make it
24 clear that we are not attempting to say we received
25 no evidence of a navigational hazard. There has been
26 evidence of this throughout the years. But what we
27 do say ^{is} that ever since the bridge was built it has been
28 a hazard to navigation and there has been no substantial
29 increase ^{is} represented to us which would warrant any
30 change in a situation which has continued for twenty-



1 five years.

2 Q. Would it be within your knowledge
3 that the size and the structures of vessels have been
4 modified over the years, say during the last ten years?

5 A. I think you are referring, sir, to
6 the bridge aft ships, and we are aware of this.

7 Q. Not particularly bridge aft ships,
8 but ships have increased in size, have they not, over the
9 past twenty years?

10 A. I personally am not aware of any
11 substantial change in the traffic using the bridge.

12 Q. Do you know of any change in the
13 size of the vessels generally?

14 A. I am personally not aware, and I
15 would like that question to be addressed to Mr.
16 McLellan, if in his knowledge he has any experience
17 of it.

18 COMMISSIONER RENWICK: Mr. Jacques,
19 might I intrude here to suggest to the witness that
20 there is a great difference between the traffic using
21 the bridge and the traffic today that desires to use
22 the bridge? They are as different as day and night.

23 THE WITNESS: That is accepted, sir.

24 COMMISSIONER SMITH: My lord, there
25 is one further question I intended to ask the witness
26 before. In the report of the Department of Public
27 Works they estimated the cost of replacing the swing
28 to the lift type as around \$8 million.

29 THE WITNESS: "Up to \$8 million"
30 I think were the words used.



1 COMMISSIONER SMITH: Well, I cannot
2 harmonize that figure with an estimate by Swan Wooster
3 of somewhere around \$2 million. There must be some
4 explanation of that that I do not understand. Can
5 you explain it?

6 THE WITNESS: Well, sir, it depends
7 very largely on what you propose to do and the con-
8 ditions you encounter. I have read or have examined
9 personally the report made by Swan Wooster Engineering
10 Company to the New Westminster Harbour Commissioners;
11 but from that report there is not enough information
12 for us to know what investigation they had made of
13 river conditions, the bottom conditions -- what
14 investigation they had made with the railways to
15 review what their requirements would be and how these
16 could be made, and factors such as this.

17 COMMISSIONER SMITH: There is quite
18 a spread between two and eight million dollars.

19 THE WITNESS: Yes, sir, there is.
20 Speaking personally I should say that possibly the
21 two million is low and possibly the eight million is
22 high and the actual cost would be somewhere in between.

23 COMMISSIONER SMITH: Thank you.

24 MR. JACQUES:

25 Q. But prior to 1961 have you received
26 complaints from anyone with respect to navigational
27 difficulties?

28 A. I think I am correct in saying that
29 complaints about navigational difficulties through this
30 bridge have been continuing ever since the bridge was



1 built.

2 Q. And your department has never at
3 any time thought fit to make an investigation into
4 these complaints to find out whether they are justified
5 or not?

6 A. Prior to 1961 I saw no evidence of
7 this on the files. Subsequent to 1961 the answer is
8 that the department is investigating -- or not in-
9 vestigating particular complaints, because that
10 would not help, but investigating the problem pre-
11 sented.

12 MR. JACQUES: Thank you.

13
14 CROSS-EXAMINATION BY MR. LEGG:

15 Q. In the course of your investigations,
16 Mr. Millar, or your department's investigations, has
17 the department seen fit to study the evidence given
18 before this Commission in March, 1963?

19 A. I have not seen the evidence pre-
20 sented before this Commission.

21 Q. You are here, Mr. Millar, to speak
22 for the Department?

23 A. No. Let me say that on the committee
24 which has been formed to investigate the particular
25 problem of bridge aft ships, Mr. McLellan is a member
26 of that committee and he is probably more competent
27 than I to say what evidence has been received.

28 Q. I see. Well, have you made any
29 search into department records to find out whether
30 the department -- that is, the Department of Public



1 Works -- has received the transcript of the evidence
2 submitted at the hearings of this Commission in New
3 Westminster in the month of March, 1963?

4 A. I think that going through the files
5 I did come upon a brief that had been presented, which
6 I have not studied.

7 Q. You know what I am talking about when
8 I talk about the transcript of evidence, of witnesses
9 giving oral testimony?

10 A. Yes, I do.

11 Q. You are aware that witnesses did
12 appear and give oral testimony before this Commission
13 in March, 1963?

14 A. I am aware of that, yes, but I have
15 not seen that testimony.

16 Q. You have not examined the transcript?

17 A. No.

18 Q. I would like to refer very briefly,
19 because there was a great deal of testimony given, to
20 some of the testimony as I recall it and as it was
21 recorded before the Commission. Before I do that
22 I want to ask you whether you were the author of the
23 written questionnaire and answers filed before the
24 Commission by the Department of Public Works, part
25 of which is set out under Question 5 and questions I
26 refer to as 7(b) and (c).

27 A. I was not, sir, the author of that,
28 but I believe it was prepared on information which I
29 had originally prepared, yes.

30 Q. I see; it was prepared after



1 consultation amongst those in authority in the Depart-
2 ment of Public Works for the railway bridge; is that
3 correct?

4 A. I must assume so. I think you
5 are referring to this, are you?

6 Q. Yes, and it is Exhibit No. 1171.
7 One of the answers given by the department is put in
8 the words you used, or the words used to date, and it
9 has not been established that the navigational re-
10 quirements justified the completion of a lift span?

11 A. That is correct.

12 THE CHAIRMAN: This should be
13 qualified by the answer before that he has not read
14 the evidence which was brought before this Commission
15 when we were in New Westminster in 1963.

16 MR. LEGG: Quite so, my lord.

17 THE WITNESS: Might I just make one
18 point?

19 MR. LEGG:

20 Q. Yes.

21 A. I think I also said "bearing all
22 other factors in mind".

23 Q. Yes, I appreciate that. I wondered
24 though if that answer were given with any knowledge at
25 all of the restrictions upon traversing the railway
26 bridge by ships put upon it by pilots in their --
27 well, it is a memorandum of instructions which has been
28 filed as Exhibit 160 before this Commission, and which
29 had been in existence (or so I understand) for some
30 years prior to the hearing in March of 1963.



1 A. I think I am correct in saying that
2 the department was aware of those restrictions.

3 Q. And the department was aware that the
4 pilots of the New Westminster Pilotage Authority had
5 come to the conclusion that vessels should traverse
6 the bridge in daylight only? Were you aware of
7 that?

8 A. I was aware of that, yes.
9
10
11
12 -
13
14
15
16 -
17
18
19 -
20
21
22
23 -
24
25
26 -
27
28
29
30



1 Q. I see. And the vessels inbound
2 should proceed on ebb tide or slack water?

3 A. That is correct.

4 Q. And that large vessels with bridge
5 aft should not be taken through the bridge at all.

6 A. Yes.

7 Q. Did the department make any investi-
8 gation as to the number of bridge aft vessels affected
9 by such restriction?

10 A. I think that this information is
11 available. I would really like Mr. McLellan to
12 comment on that as well.

13 Q. I see. Well, I wondered if you
14 could tell me then what evidence, in addition to the
15 restrictions put out by the pilots on vessels tra-
16 versing the bridge, had been considered by the depart-
17 ment when the statement was made today, "It has
18 not been established that the navigation requirements
19 justify the acquisition of a lift span bridge."

20 A. In my opening statement to the
21 Commission I attempted to establish that it was our
22 hope that the initial reply to the Commission was not
23 misleading by brevity.

24 Q. Yes?

25 A. The point we are trying to make is
26 that there were no substantial changes which, bearing
27 all other factors in mind, would justify the con-
28 struction of a lift span bridge.

29 Q. Had there not been a substantial
30 change in the number of vessels that had attempted to



1 get through the bridge, Mr. Millar?

2 A. I think possibly that is so. I
3 wouldn't care to state a Yes or a No to that question
4 but what I did attempt to say is that there are other
5 factors which bear on the problem which might be
6 considered.

7 Q. Yes, but the department did not
8 attempt to get together all evidence dealing with the
9 difficulties of navigation on the Fraser River?

10 A. That is being done.

11 Q. It had not been done in 1961?

12 A. In 1961 it had not done this, no.

13 Q. And it is so that the New Westminster
14 Harbour Commission did file a brief emphasizing the
15 navigational problems on the Fraser River with the
16 Department of Transport?

17 A. That is so.

18 Q. And that brief has been brought to
19 your department's attention?

20 A. That is so.

21 Q. But no attempt was made to find out
22 to what extent this restriction by the pilots in
23 traversing the bridge imposed upon traffic trying to
24 get through the bridge?

25 A. I think the department was aware of
26 the restriction.

27 Q. They were aware of the restriction
28 but were they aware of the effect and results these
29 restrictions had?

30 A. I think the evidence was, or one of



1 the matters upon which evidence would have been re-
2 quired, was whether the installation of a lift span
3 or the construction of anew crossing, whichever should
4 be decided upon could be justified in the problem of
5 economics against the economic benefits being derived
6 from the area concerned.

7 Q. I am talking about the navigational
8 problems primarily. I quite appreciate there are
9 other interests, particularly the railway interests,
10 involved in this bridge and these cannot be ignored.
11 I do not suggest for one minute that the Department
12 of Transport has ignored the interest. I am asking
13 now to what extent has the Department of Public Works
14 inquired into the restrictions placed upon navigation
15 in the Fraser River by this bridge since 1961?

16 A. As I said earlier, an interdepartmen-
17 tal committee was established to investigate this
18 matter and that committee is now awaiting the brief
19 to be poredented to this Commission and also this
20 evidence to the Commission will be dependent upon the
21 future requirements of the railways.

22 Q. That committee which was set up for
23 this purpose has never seen fit to study the transcript
24 of the evidence given?

25 A. I cannot say that because I am not
26 a member of the committee.

27 Q. Could Mr. McLellan answer that
28 question?

29 A. Mr. McLellan will be available to
30 answer it.



1 Q. Is he a member of the committee?

2 A. Yes, he is.

3 Q. He should be able to answer it?

4 A. Yes.

5 Q. And you cannot answer?

6 A. I cannot.

7 Q. As far as you are aware the committee
8 has not studied the transcript?

9 A. As far as I am aware, the department
10 has not studied the transcript.

11 Q. Now, in your testimony earlier I
12 think you told the Commission that you were referring
13 to paragraph 10 of what is now Exhibit 164 but which
14 is Privy Council Order 153. You referred to it in
15 your testimony. You quoted the words, I think,
16 "that the applicant will undertake to install in
17 the present bridge in place of the present horizontal
18 swing span, a vertical lift span of not less than
19 250 feet horizontal clearance."

20 Now, is the applicant there the
21 Department of Public Works?

22 A. No. The applicant at that time
23 was the Province of British Columbia.

24 Q. The Province of British Columbia
25 and then it was applying for permission from the
26 federal government to build the Pattullo bridge?

27 A. Correct.

28 Q. It is in that context that is phrased,
29 of course. Then in 1939 the bridge was transferred
30 to Dominion Government?



1 A. That is correct.

2 Q. Was it not transferred with the view
3 in mind that a study should be made of the possibility
4 of installing a lift span in place of the horizonatl
5 swing bridge?

6 A. I cannot speak for the officials
7 at the time, but presumably this was so since the
8 period of ten years was given in which it would be
9 decided whether or not a lift span would be installed.

10 Q. During the course of that ten-year
11 period, as Mr. Commissioner Smith has mentioned to
12 you, Dr. Pratley was asked to give a report?

13 A. Yes.

14 Q. Is it the position of the Department
15 of Public Works that the report of Dr. Pratley should
16 not be revealed?

17 A. That is the stand which has been
18 taken now but it is my understanding that if necessary
19 this matter could be decided by the Minister and our
20 stand is based on the fact that this is a report which
21 is not available to members of parliament and it
22 would not be courteous for us to release it to others.

23 Q. In any event for the reasons you
24 have stated, the department is not now prepared to
25 release the report of Dr. Pratley?

26 A. At the moment that is how it stands.

27 Q. Is there any basis for suggesting
28 that it might be released in the future?

29 A. Not that I know of.

30 Q. I just wanted to be clear on what the



1 department's position was.

2 Mr. Jacques has suggested that I
3 inquire of the department through its counsel present
4 this morning whether that is in fact still the position.

5 MR. GARON: Yes, my lord, that is
6 the position.

7 THE CHAIRMAN: Of course, we under-
8 stand also that when we look into this question should
9 we need this report to study then we will request
10 permission and we are assured we are going to have it,
11 of course, with the reservation as to what use we
12 make of it.

13 MR. LEGG:

14 Q. I wondered if you could say whether
15 or not the department relies upon the report of Dr.
16 Pratley in view of the fact it was made some seventeen
17 years ago, as Mr. Smith has mentioned?

18 A. In answer to that the information
19 or his report, in so far as it concerns railway traffic
20 and therefore obsolescence would be open to question
21 now in some degree but in other respects it is our
22 information that it is a very good report with regard
23 to the rail conditions and engineering difficulties of
24 construction, and so on.

25 I should possibly say that we do not
26 suggest by that statement that we would stand by that
27 report entirely. Circumstances alter. Naturally
28 we would have further investigation into matters as
29 they are now because quite obviously in twenty years
30 they could change.



1 Q. Well, are you satisfied that in
2 the light of changes in shipping, with which you may
3 not be directly familiar but which you may have heard
4 about in the course of your inquiries to answer these
5 questions and come here and prepare yourself today,
6 are you not satisfied conditions on the Fraser River
7 have changed?

8 A. In so far as traffic, I am not per-
9 sonally satisfied, with what I know at the moment,
10 that the changes have been substantial enough to war-
11 rant any change in the existing bridge.

12 Q. Well now, what do you mean by
13 "substantial changes"?

14 A. Well, may I just answer that, and
15 I do not want to suggest again that we are not con-
16 cerned with the navigational hazard.

17 I should say with what we know now
18 we think in greater or less degree the existing bridge
19 in its present location will always present a hazard.

20 Q. Yes. If accordingly there was an
21 increase in the river traffic the hazard would become
22 all the greater?

23 A. That is correct.

24 Q. So if this Commission had evidence
25 before it of increasing river traffic through that
26 bridge then it would be important to review the matter
27 and not rely entirely upon Dr. Pratley's report?

28 A. There is no doubt about that what-
29 soever.

30 Q. Again as far as you are aware that



1 has not been done by the department?

2 A. No.

3 THE CHAIRMAN: For your information,
4 Dr. Pratley's report was made available to the
5 Commission on a contingency basis. We have it and
6 we have read it. We are going to study it when we
7 come to that.

8 MR. LEGG: I was told by Mr. Nadeau,
9 my lord, by telephone, that the report had been made
10 available but that the department claimed privilege.

11 THE CHAIRMAN: That is right.

12 MR. LEGG: And the members of the
13 Commission have not seen fit to make any direction to
14 the department.

15 THE SECRETARY: That was subsequently
16 confirmed by telegram, my lord.

17 MR. LEGG:

18 Q. Can you tell the Commission when the
19 most recent report was made to the Department of
20 Public Works as to the present state of the Fraser
21 River railway bridge?

22 A. I am not too sure what you mean by
23 "present state".

24 Q. As to its state of repair, its
25 maintenance and so forth. Does the department not
26 make inspections from time to time?

27 A. There are continuous inspections, yes.

28 Q. Are there inspections like that done
29 on an annual basis?

30 A. There are day-to-day inspections and



1 inspections are carried out in close liaison with the
2 bridge engineers of the Canadian National Railways.
3 At what date detailed inspections of the whole structure
4 is made I cannot at the moment recall but I can find
5 this information for you if you consider it necessary.

6 Q. I wonder if you are prepared to tell
7 the Commission what the present state of the bridge is
8 in terms of its foreseeable life span and that sort of
9 thing?

10 A. This is a question which possibly
11 Mr. McLellan could throw further light on and in
12 fact I think it is one that would require the advice
13 of the railway engineers because the life of the bridge
14 is very much dependent on the traffic using it; not
15 only the intensity of traffic of wheel loadings and
16 matters of that sort. If there is going to be any
17 change in railway policy in this respect, it would
18 affect the life of the bridge.

19 Q. Firstly referring to the engineer.
20 Are you referring to the Dominion Bridge and Engineering?

21 A. No, I am referring to the Canadian
22 National Railway engineers.

23 Q. It is their engineers that do the
24 inspection of the bridge?

25 A. Yes.

26 Q. It is not an engineer from the
27 Department of Public Works?

28 A. Engineers from the Department of
29 Public Works carry out inspections in conjunction with
30 Canadian National Railway engineers but as the bridge is



1 used entirely by the railway company, they must find
2 it acceptable to them for railway traffic.

3 Q. Well, my instructions, Mr. Millar,
4 are, and I get these instructions from a copy of the
5 report made by Dominion Bridge Company Limited,
6 Pacific Division, which, as you are perhaps aware is
7 a Vancouver organization, and as of April 1958 the
8 bridge was inspected and found to be in excellent
9 structural condition.

10 A. Yes, I am aware of that report.

11 Q. You are aware of that report?

12 A. Yes.

13 Q. Has there been any further report
14 made by your department to change that state of affairs;
15 that is, is it still in excellent structural condition?

16 A. Not that I am aware of.

17 -

18 -

19 -

20 -



1 A. Not that I am aware of, I should
2 think that it is, but I should also like that to be
3 corroborated by Mr. McLellan.

4 Q. I appreciate that you have never
5 seen the bridge, and you have a little reluctance in
6 being adamant about the statement, and I am direct-
7 ing my questions to what knowledge the department has.

8 A. Correct. I understand.

9 Q. When we talk about excellent
10 structural condition, we are talking about the condition
11 of the piers of the bridge?

12 A. I am not prepared to answer.

13 Q. Would Mr. McLellan have knowledge of
14 that?

15 A. I think possibly Mr. McLellan would.

16 Q. It appears the piers of the bridge,
17 and I am referring now to the piers which mount the
18 span.

19 A. Centre span.

20 Q. And the centre pier?

21 A. Yes.

22 Q. The centre pivot. These piers
23 are understood to be in good condition, are they not?

24 A. That is my understanding, but again
25 I wish ---

26 Q. You would like Mr. McLellan to
27 corroborate that?

28 A. --- that questions on the bridge
29 itself could be addressed to Mr. McLellan.

30 THE CHAIRMAN: The pilots are too



1 good!

2 MR. LEGG:

3 Q. Now, I would wish to ask you some
4 questions if I may about some reference that you made
5 to Dr. Pratley's report in the written document that
6 has been filed by the Commission. I take it you
7 would have no objection to answering some questions on
8 the phraseology of your answers given under answer 7
9 in Exhibit 1171.

10 Now, you refer on page 6 -- I am
11 referring to item No. 2, subparagraph 2, that the
12 recommendation of a change to a lift span is undesirable
13 due to river conditions, i.e. nature of the bottom.
14 Do you see that?

15 A. Yes.

16 Q. Do you know what is referred to there,
17 the nature of the bottom? What particular bottom
18 nature is in mind as far as you are aware?

19 A. I would be subject to any inter-
20 pretation from our legal counsel, but I have a copy
21 of the Pratley report here.

22 Q. Yes?

23 A. I have noted that he mentioned river
24 characteristics, and at that time, to summarize what
25 he said, there is this: Continuous surveys reveal
26 the direction of the currents and the extent of
27 silting up. Diversion structures built upstream
28 would have been established to guide or deflect water
29 into chosen channels, as a means of maintaining the
30 flow required, and other such structures are now



1 contemplated. All these features suggest to me
2 that the actual conditions present a sufficient
3 problem and that no work or construction should be
4 lightly undertaken in the neighbourhood of these dredge
5 piers which might introduce further and unpredictable
6 changes in river conditions.

7 Q. Did Dr. Pratley there refer specifi-
8 cally -- I was trying not to interrupt you but to
9 follow what Dr. Pratley said -- does he refer specifi-
10 cally to silting up?

11 A. No, he is referring to changes in
12 the river conditions that might lead to silting up
13 and it might lead to scouring.

14 Q. There is a reference to extensive
15 silting in the passage you read?

16 A. Yes.

17 Q. Has the Department of Public Works
18 not maintained a dredging programme in the Saperton
19 Channel immediately upstream?

20 A. Yes, it has. I have no personal
21 knowledge of this.

22 Q. I realize that, but you are aware
23 that the Department of Public Works gave evidence as
24 to the dredging programme there before this Commission
25 in New Westminster?

26 A. No, I am not aware of the ---

27 Q. The evidence of that witness was that
28 he did not expect there to be any silting up problem
29 because he was being asked whether the dredging pro-
30 gramme could be increased. In fairness I would just



1 like to take a moment to check on his evidence because
2 I know you were not there.

3 THE SECRETARY: Who was the witness?

4 MR. LEGG:

5 Q. Mr. Wallace.

6 A. I think you are referring specifically
7 to silting up; is that right?

8 Q. That is right.

9 A. Well, if one goes on a little in
10 Mr. Pratley's evidence at the time he corroborates what
11 I suggested when he says shoaling or souring, so the
12 reference is not necessarily only to silting but to
13 scouring.

14 Q. Mr. Wallace, who is an employee of
15 the Department of Public Works, was examined and
16 gave evidence before this Commission, and he generally
17 agreed that the Saperton Channel, which is immediately
18 upstream of the Fraser River bridge did not present
19 a problem as far as silting up was concerned, and his
20 judgment was taken from the nature of the spoil taken
21 from the river, and he did not expect there to be
22 any silting up problem.

23 Has any inquiry been made by the
24 Department of Public Works, by its local office, such
25 as Mr. Wallace, as to the extent of scouring and
26 silting up problems that exist in this area?

27 A. I think this is a question which
28 is properly answered by a representative of the
29 Harbours and Rivers Branch, which is responsible for
30 these conditions in the Department of Public Works.



1 Q. Is Mr. Wallace such a person?

2 A. Yes, Mr. Wallace is such a person,
3 but to comment on his evidence I would suggest here
4 it should be Mr. McLellan.

5 Q. Dr. Pratley also refers to shift
6 of sand, probability of scouring, or silting, dredging
7 programmes, currents, navigation lanes and influence
8 of other structures upstream or downstream, freshets,
9 interference of flow, etcetra, and the passage that
10 you read from Dr. Pratley's report a moment ago, was
11 that the passage which was in mind in referring to
12 Dr. Pratley's report or in quoting from Dr. Pratley's
13 report in this Exhibit 1171?

14 A. No, in this exhibit we were merely
15 referring to his conclusions.

16 Q. Yes?

17 A. In other words, there is a great deal
18 of explanatory detail in support of those conclusions
19 which are contained in the report, and of course which
20 we did not quote in the answers to that particular
21 question.

22 Q. Do you know whether Dr. Pratley
23 was able to make any investigation himself of these
24 particular matters that are mentioned, in Exhibit 1171?
25 That is, the shift of sand, for instance.

26 A. I personally cannot say.

27 Q. Is there anything in his report to
28 indicate that?

29 A. I would have to refresh my mind with
30 the report. I can't say offhand.



1 Q. Does that answer apply to the other
2 topics that are mentioned in Exhibit 1171, namely the
3 probability of scouring? Would you have to refresh
4 your memory on that?

5 A. I should like to, yes.

6 Q. Siltting?

7 A. Yes.

8 Q. Any reference to the dredging pro-
9 gramme?

10 A. Yes.

11 Q. Is there a reference to the dredging
12 programme in Dr. Pratley's report?

13 A. I can't recall.

14 Q. Would you like to refresh your memory
15 on all those matters?

16 A. Yes.

17 Q. Turning now to Question 3 and the
18 answer in Exhibit 1171, there is a reference to the
19 impracticability in consideration of the type, lo-
20 cation and extent of new construction likely to be
21 needed. Is there any reference to the new construc-
22 tion likely to be needed in Dr. Pratley's report?

23 A. I am not sure of what you are
24 referring to.

25 Q. Have you a copy of your questionnaire
26 and the answers?

27 A. Yes.

28 Q. On page 6.

29 A. Oh, yes.

30 Q. You see on the Roman numeral(III)



1 there is a reference to impracticability in
2 consideration of the type, location and extent of
3 new construction likely to be needed and the related
4 construction problems.

5 A. Yes.

6 Q. My question was what was the new
7 construction likely to be needed that is referred to
8 there?

9 A. I think that Dr. Pratley was refer-
10 ring to the new construction necessary to install a
11 lift span in the existing structure.

12 Q. I see. It is the construction
13 then of vertical towers?

14 A. Piers.

15 Q. To take the lift span?

16 A. That is correct, including the false
17 work, caissons and all impedimenta which form part
18 of a construction tower such as this.

19 Q. Now, you have already told the
20 Commission that you were not prepared to comment on the
21 Swan Wooster Engineering report or brief dated March
22 1st, 1961?

23 A. That is correct.

24 Q. So we pass along from there and my
25 next question is directed to your answer to Question
26 8: The Department of Public Works has not undertaken
27 a detailed engineering study from which the cost can
28 be estimated. However, it is broadly considered that
29 the cost could be up to the order of \$8 million.

30 Can you assist me or assist the



1 Commission by breaking that figure down and telling
2 me what the cost of construction of the towers would
3 be?

4 A. I cannot.

5 Q. Is there any greater detail of that
6 figure of \$8 million than is given in the answer to
7 Question 8?

8 A. Not available to me, no, sir.

9 Q. Or available to the department?

10 A. Not that I know of, no.

11 Q. You have made inquiries?

12 A. Yes.

13 Q. As to the accuracy of the figure?

14 A. I have not. I have made inquiries
15 and let us say this is what is called a preliminary
16 rough estimate.

17 Q. Yes. Mr. Millar, in fairness, as
18 a professional engineer, you would not put that
19 estimate forward with any degree of confidence, would
20 you?

21 A. I am in a somewhat difficult area
22 here. I know that this matter has been investi-
23 gated by others, but I cannot say in what detail it
24 has been investigated.

25 Q. Now, I would like you to answer the
26 question that I just put to you, sir. I am asking
27 you now as a professional engineer with fair knowledge
28 over a number of years what amount of study is required
29 before an opinion as to the cost of a job can be put
30 forward with confidence? I put it to you that you



1 cannot put forward that in confidence, that figure
2 of \$8 million because of the inadequate information
3 that is available?

4 A. No, sir. The information on which
5 the figure is based, I am not quite sure what investi-
6 gation has been carried out, but I cannot say that the
7 information is inadequate.

8 Q. You cannot say that the information
9 is inadequate?

10 A. No.

11 Q. Well, then, tell me what the infor-
12 mation consists of. A figure like \$8 million, Mr.
13 Millar, is a large sum. Surely it is capable of
14 being broken down into separate items. When one
15 talks about conversion of a swing span bridge to lift
16 span bridge, a layman such as myself immediately thinks
17 of the cost of the lift span itself. That is the
18 span of steel.

19 A. I fully appreciate your position.

20 Q. And I wondered if you could help me
21 and the Commission to understand a little more fully
22 how this \$8 million figure was arrived at. What
23 portion of it, for instance, is allotted to this
24 centre span that I talked about, the lift portion?

25 A. As I say, I am in a difficult
26 position, but may I ---

27 Q. Please answer it in any way you see
28 fit.

29 A. I am not quite sure. It concerns
30 other departments, and I am not sure whether I am at



1 liberty.

2 Q. Well, I can appreciate that.

3 A. I am not sure I am at liberty to
4 mention ---

5 Q. Would you like to consult with your
6 counsel?

7 MR. GARON: Possibly you could have
8 a short discussion.

9 THE CHAIRMAN: That is all right.
10 Would you like to do it now?

11 MR. GARON: Yes.

12 THE CHAIRMAN: We will recess for
13 a few minutes.

14 ---Short recess.

15
16 MR. LEGG:

17 Q. Mr. Millar.

18 A. I may say, sir, the matter is one
19 of etiquette.

20 Q. I am sorry?

21 A. It is a matter of etiquette.

22 Q. Etiquette?

23 A. Yes, and the figure of \$8 million
24 which was mentioned I obtained in discussions with the
25 bridge engineer of the Canadian National Railways.
26 I must add that they were casual discussions in
27 respect of this particular point, and I did not with
28 him go into detail, so I cannot say upon what inquiry
29 or what investigations his figure was based.

30 Q. You mentioned this gentleman's



1 position. Can you mention his name?

2 A. Yes, his name was Jenkins.

3 Q. Mr. Jenkins?

4 A. Yes.

5 Q. Do you know of your own knowledge
6 whether he had been able to make any investigations?

7 A. No, I do not.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



1 Q. You did not inquire as to what
2 investigation, if any, he had made?

3 A. At the time I did not, no.

4 Q. When this reply to Question 8 was
5 filed on behalf of the Department of Public Works
6 and Exhibit 1171?

7 A. That is right.

8 Q. Are you able to say at all to what
9 extent or what portion of the figure of \$8 million is
10 an estimate of the cost of diverting railway traffic
11 during a period of time when the swing span was being
12 converted to a lift span?

13 A. No, sir, I have not.

14 Q. Was that discussed at all with the
15 Canadian National engineers?

16 A. It was not discussed at all, no.
17 In fact, the matter has not been discussed in any
18 detail.

19 Q. Has anyone in the Department of
20 Public Works made an estimate of this kind?

21 A. No.

22 Q. At any time?

23 A. No.

24 Q. So far as you are aware?

25 A. Not as far as I am aware; the
26 answer is No.

27 MR. LEGG: My lord, I am not sug-
28 gesting I have any right to ask Mr. McLellan to come
29 forward, but I take it from many of Mr. Millar's
30 answers that he would prefer Mr. McLellan to answer



1 questions which I have put. I understand that he
2 will be available. Subject to that, I would like
3 to conclude my cross-examination.

4 THE CHAIRMAN: That will be fine.
5 Mr. Millar was made available to the Commission and I
6 am sure he is going to stay here and if it happens
7 that there are further questions to be asked of him,
8 he will come later on?

9 THE WITNESS: Yes.

10 MR. LEGG: Thank you, my lord.

11 ---Witness withdrew.

12 THE CHAIRMAN: I am just wondering
13 whether it is worthwhile starting with a fresh wit-
14 ness at this time. There are going to be many ques-
15 tions.

16 MR. LEGG: It would depend very
17 much on the extent of Mr. McLellan's information. I
18 might be twenty minutes or so with him.

19 MR. JACQUES: I have quite a few
20 questions, my lord.

21 THE CHAIRMAN: Would it serve any
22 purpose if we call him now and we will have ten minutes
23 before lunch?

24 MR. JACQUES: Yes, my lord.



1 DIRECT EXAMINATION BY MR. JACQUES:

2
3 Q. What is your position with the
4 Department of Public Works?

5 A. I am the Secretary in Chief of the
6 Western Pacific Section, Maintenance and Operations
7 of the Harbours and Rivers Branch.

8 Q. Are you a civil engineer by profes-
9 sion?

10 A. Yes, I am.

11 Q. I should like first to ask you if
12 you recall the terms of reference of this interdepart-
13 mental committee set up to study the New Westminster
14 bridge. You remember that you are a member of that
15 committee, are you not?

16 A. This committee was set up to investi-
17 gate the request of the New Westminster Harbour Com-
18 missioners, backed up, I believe, by Crown Zellerbach
19 of about 1960-1961. I am not sure just when. It has
20 held only two meetings and the matter is resting on
21 the fact that certain information was given at that
22 time on which clarification was being sought by certain
23 members of the committee and they have never returned
24 back.

25 Q. They have never returned back?

26 A. No. I have discussed this matter
27 informally with these fellows at various times and it
28 is because they have not been able to get an explana-
29 tion of the figures.

30 Q. You say that this committee was set



1 up in 1960 or 1961?

2 A. Dr. Weekes was the other Public Works
3 member of this committee and he has been left the
4 department something like eighteen months ago. There
5 has been no meeting since he left.

6 Q. But the committee was set up in 1960
7 or 1961?

8 A. That is correct.

9 Q. And has held two meetings since.
10 Who is the chairman of the committee?

11 A. Dr. Weekes.

12 Q. He has now left the Department of
13 Public Works. Who has replaced him?

14 A. G. J. Daly.

15 Q. Is he from Public Works?

16 A. He is Chief of the Economic Services
17 Department.

18 THE CHAIRMAN: Do you mean who
19 replaced him as the chairman?

20 MR. JACQUES: Chairman of the com-
21 mittee.

22 THE WITNESS: It is a very inactive
23 committee.

24 MR. JACQUES:

25 Q. That is an understatement. Do you
26 know if the present chairman has requested meetings of
27 the committee?

28 A. No. He has made inquiries as to
29 such things that have been happening -- that is, if
30 there has been any further push of the matter. The



1 last time we discussed it -- it is quite vague; I do
2 not know when; but it was some time ago when we knew
3 that the meetings of this Commission were being held
4 and at that time we just let it ride again. This is
5 basically because we have been unable -- and this is
6 going a little bit far perhaps -- but certain figures
7 were submitted by Crown Zellerbach and the New
8 Westminster Commission at the time had required
9 explanation, and we have been unable to get the
10 explanations that were asked for.

11 Q. You were supplied these figures by
12 the New Westminster Harbour Commissioners and Crown
13 Zellerbach in 1960 or 1961?

14 A. Yes. For example, Crown Zellerbach
15 in their statement at that time, I believe, listed
16 the increase in barge traffic from their plant at
17 Fraser Mills above the bridge to Vancouver and other
18 parts of the Fraser River below the bridge.

19 But these figures in themselves
20 are not significant unless we know whether this is
21 part of company policy -- whether for example if the
22 lift span were put in would they be loaded on ships
23 that went to Fraser Mills, and this information we
24 have been unable to obtain.

25 Q. You have requested these explanations
26 from Crown Zellerbach?

27 A. I should say this was the responsi-
28 bility of one of the members of the committee, to
29 request it, and these members were members of the
30 Department of Transport who had in some way jurisdiction



1 over the New Westminster Harbour Commissioners.

2 Q. And you do not know when it was
3 requested from Crown Zellerbach?

4 A. I could not tell you. No, I have
5 no idea.

6 Q. Either your committee is not sending
7 letters or Crown Zellerbach is not replying to your
8 letters?

9 A. Or perhaps they do not want to.

10 Q. Now there has been some mention of
11 navigational hazards. It was said by Mr. Lalonde that
12 the bridge was to a certain degree a navigational hazard.
13 What is your understanding of "navigational hazard"?

14 A. Well, something that interferes with
15 navigation, I presume.

16 Q. Something that interferes with navi-
17 gation?

18 A. If you want my opinion, to cut this
19 short, my opinion is that if this bridge were being
20 requested for approval today, under the Navigable
21 Waters Protection Act -- which does come under our
22 branch -- it would not be approved. It would not
23 even be approved at the width . . . I should not be
24 too definite. It would not be recommended for approval
25 even at the width of the so-called vertical lift span.
26 It would have to be something in the neighbourhood of
27 450 feet, the same as the Pattullo bridge downstream.
28 This is if it were a new structure.

29 Q. If it were a new structure? there-
30 fore I am right in saying that the department realizes



1 that maritime traffic has changed over the years and
2 that the requirements of twenty years ago are not the
3 requirements of today owing to those changes?

4 A. That would appear to be quite correct
5 to assume that.

6 Q. Am I right in assuming that the
7 department then was aware of the change in the size of
8 the vessels since it required greater spans?

9 A. Let us have that again?

10 Q. The department must have been aware
11 of a trend in shipbuilding to build larger ships --
12 ships broader in the beam?

13 A. Correct.

14 Q. Could we not say then that fifty
15 years ago traffic might not have been any serious
16 navigational hazard but today due to the increase in
17 the beam of the vessels, the size of the vessels, there
18 would be navigational hazards?

19 A. Possibly, yes, and probably.

20 THE CHAIRMAN: Before you pass on
21 to another question we will adjourn until this afternoon
22 at two-thirty.

23 MR. LEGG: Thank you, my lord.

24 ---Luncheon adjournment.
25
26
27
28
29
30



1 ---UPON RESUMING AT 2:35 P.M.

2 MR. J. J. G. McLELLAN, Recalled
3 DIRECT EXAMINATION BY MR. JACQUES:

4 Q. Mr. McLellan, I believe you have
5 now had time to consult your files, particularly on
6 this joint committee -- or would Mr. Millar ---

7 A. Yes. I would like to correct
8 perhaps a wrong impression I left with respect to this
9 inter-departmental committee and the fact that it has
10 been inactive. It has been inactive; that part is quite
11 definite; but this is the reason. The Committee was
12 formed in June, 1962 ---

13 Q. At whose instigation?

14 A. It was as a result of a submission
15 by the New Westminster Pilotage Commission with respect
16 to the refusal of pilots to take bridge-aft ships
17 through the bridge.

18 Q. Yes?

19 A. It was addressed to the Department
20 of Transport and a Committee was formed of Transport
21 and Public Works.

22 Q. Yes, but who took the initiative
23 in the creation of the Committee? Who suggested the
24 idea that there should be an inter-departmental committee?

25 A. Well, this I do not know.

26 Q. It would not appear from your
27 records?

28 A. It would appear to have been taken
29 by our Department, the Department of Public Works.

30 Q. I see, and would you know the exact



1 composition of that Committee -- not by names but
2 rather by title?

3 A. Dr. Weekes was Chairman of the
4 Committee. He was the Director of Economic Studies
5 of the Department of Public Works. Mr. Darling of
6 Transport; I am not sure of his position; he is
7 with the Economic Research Branch, I think, in that
8 Department. And Mr. Lang of the Aids to Navigation
9 Branch, Marine Services Division, and myself, Harbours
10 and Rivers Branch, Public Works.

11 Q. So there were four of you?

12 A. That is correct. That Committee
13 met on two occasions, August 16th and December 14th,
14 1962. I am not sure at which meeting Mr. Lang had
15 undertaken to obtain further information on the
16 refusal to obtain the information on the traffic that
17 was not going through the bridge as a result of the
18 refusal of the pilots to take bridge-aft ships through
19 the draw span.

20 Q. Would your files show when Mr. Lang
21 was instructed to receive that information?

22 A. It would be at the meeting of the
23 16th August or December 4th. I presume it would be
24 the 16th August because December 4th is probably when
25 he reported that he had no information, and that is the
26 last meeting that was held of the Committee.

27 Q. Would you have minutes of these
28 meetings?

29 A. I have not, no.

30 Q. Would there be minutes of the



1 meetings?

2 A. I doubt it very much. There would
3 be a record on the file to the effect that the meeting
4 was held, with certain comments.

5 Q. At any rate Mr. Lang was instructed
6 to obtain further information some time in August, 1962,
7 and you say that in December, 1962 he reported that
8 he had not obtained that information?

9 A. He had been unable to obtain it.

10 Q. He had been unable to obtain it.
11 Now in the meantime, between the period of August, 1962
12 and December, 1962, had you received any other
13 representation with respect to the bridge from any
14 other party? I believe you said this morning that
15 you also received representations from Crown Zellerbach?

16 A. I am not too sure of where the
17 Crown Zellerbach information came. I would like to say
18 that in February, 1963 -- this is two months after the
19 last meeting -- there was a brief received for consider-
20 ation that had been submitted to this Commission. The
21 Chairman then was no longer Dr. Weekes; it was Mr. Daly,
22 who had taken his place.

23 "We have gone through the
24 copy of the brief presented
25 recently by the New Westminster
26 Harbour Commissioners to the
27 Royal Commission on Pilotage.
28 It is understood that further
29 briefs including Crown
30 Zellerbach are being presented



to the Royal Commission and that the District Engineer will endeavour to obtain copies of such briefs. In the circumstances it would seem desirable that further action on the study of the possible changes in this bridge be postponed until we have had an opportunity to peruse the briefs of the Royal Commission, particularly if they deal at length with the navigation under the New Westminster railway bridge."

Q. That was dated when?

A. This was on March 26th, 1963.

Q. What is that document? Is that a memo?

A. It is an inter-departmental memo.

Q. Between Committee members?

A. No. It is placed on the files of the Department.

Q. Would your files show if the Department of Transport commented on the refusal of pilots to take bridge-aft ships through the bridge?

A. I have no knowledge of any such comments being made.

Q. Would you check the documents relating to the creation of the Committee?



1 A. Beg your pardon?

2 Q. Would you check the documents which
3 were first exchanged in 1962?

4 A. Well, I haven't...

5 Q. You have not any?

6 A. Oh, I see what you mean. I'm
7 afraid I can't find it, other than a letter written
8 to Mr. Baldwin.

9 Q. Would you say that again, please?

10 A. I'm afraid I can't find anything
11 other than a letter written to Mr. Baldwin by our
12 Deputy Minister. I am not sure that I should without
13 permission --

14 Q. You may consult with your
15 Solicitor. There is no objection.

16 MR. GARON: If it is a letter, My Lord,
17 from the Deputy Minister of Public Works to the
18 Deputy Minister of Transport we take the view it is
19 a privileged document exchanged between officers of
20 the government. I have no objection if Mr. McLellan
21 gives the substance of this but I would not like it
22 to be produced.

23 THE WITNESS: Well, this is a departmental
24 memorandum summarizing the effort as of June, 1962
25 and it has to do with an exchange of correspondence
26 between Transport and Public Works.

27 Q. Can you tell us the dates of these
28 various letters and also the gist of the exchange?

29 A. I should like to say this summary
30 is the gist of this thing. The discussion was having



1 to do with the movement of scows, log booms and
2 pilots being against taking the barge -- bridge-aft
3 vessels through the bridge; and the type of attitudes
4 taken at this time was that the movements of this
5 type of boat, if it is a large type of boat or a
6 new element and before considerations could be
7 given to the importance of the bridge that new studies
8 would have to be made to determine the benefits that
9 would be derived from being able to move this type of
10 vessel up the river and it was on this basis that the
11 Committee was formed and we attempted to get the
12 information.

13 Q. Would this memo show the date on
14 which either your Department or the Department of
15 Transport first had an incling or an indication of the
16 refusal of pilots to take bridge-aft ships through
17 the bridge?

18 A. Well, it would indicate here, and
19 there was a letter from the New Westminster Pilotage
20 Authority on April 17th, 1962.

21 Q. So this presumably is the date
22 on which you first had knowledge of that?

23 A. It would seem a reasonable
24 assumption, yes.

25 Q. You said April, 1962?

26 A. That is correct.

27 Q. You said this morning this was
28 transmitted to your Department by the Department of
29 Transport?

30 A. As a result of conversations, the



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

McLellan, dir
(Jacques)

18416

1 | gist -- that is right.

2 Q. As a result of whatever it was,
3 anyway. It was transmitted to you by the D.O.T., and
4 on which date was it transmitted to you?

5 A. I couldn't tell you. I have no
6 record here of that.

7 Q. Would the Department of Transport
8 have made any comment with respect to that brief
9 submitted by the New Westminster pilots?

10 A. I am quite sure it would be --

Q. I am sure if you look at your
memo you might have something there.

13 A. As a result of them receiving it
14 and, incidentally, quite independent of the fact that
15 they got it, we did receive a copy of the same sub-
16 mission so that when Transport forwarded it to us we
17 were already aware that the thing was in existence but
18 since it was addressed to Transport, we took no action
19 until such time as Transport brought it up.

Q. Independently of the brief submitted
by the Harbour Commissioners your Department was aware
of the difficulties experienced at the bridge?

23 A. We had been aware of difficulties
24 of the bridge for a long time.

25 Q. With respect to refusals --

26 A. We would not necessarily find this
27 out immediately, but I mean -- let me put it this way --
28 I was not surprised when I saw it because I had already
29 heard it somewhere.

30 Our people in the District do not



1 get official advice on some of these things, but we
2 do hear about them, reports and papers, peoples'
3 conversations here and there. We do keep track --
4 try to keep up with what is going on so when we
5 officially -- I would say when Transport wrote to us
6 this was the first official knowledge we had of the
7 refusal of pilots to take bridge-aft vessels through
8 the bridge, although in fact most of our officials did
9 already know that.

10 Q. And so because nobody complained
11 officially, you didn't take action?

12 A. Our responsibility is to keep the
13 bridge in operation, at least -- we have nothing to
14 do with the rules of the road or what the pilots do
15 or won't do. Our particular job as Harbour Engineers
16 was to keep the bridge in operation and this we were
17 doing.

18 When those to whom movement of
19 ships in placed such as New Westminster Harbour, the
20 Commissioners and these people had problems about
21 which we had become involved because we happened to
22 be maintaining this bridge, when they bring it to us,
23 then we do investigate.

24 Q. Primarily to whom should a request
25 be addressed? Say if I am a ship owner and I have
26 difficulties in navigating under a bridge after which
27 you look. To whom should I write to have something
28 done about that; to you or to Transport?

29 Perhaps Mr. Millar is in a better
30 position personally to answer this question.



1 A. I would say from the point of view
2 of my particular Branch, that is the Harbours and
3 Rivers Engineering Branch, our responsibility is to
4 maintain and operate the bridge. Whether or not
5 Mr. Millar has anything further to add from the point
6 of view of his Branch, I don't know.

7 Q. Surely your responsibility is to
8 maintain not a bridge in the abstract but a particular
9 bridge in a particular place with particular problems?

10 A. This is something I think you
11 should ask somebody else. I do not wish to be hard
12 to get along with, but our particular Branch has
13 nothing to do with whether or not this is -- the
14 fact it is a menace to navigation or may or may not
15 be a menace to navigation is something, if it is --
16 it was a fact. It existed. We were instructed,
17 "Keep it maintained".

18 Q. You are quite sure your documents
19 would not show the attitude of the Department of
20 Transport with respect to that problem when it was
21 first brought up?

22 A. I do not feel I can answer that.
23 I mean I do not feel qualified to answer that point.

24 MR. JACQUES: Thank you.

25 -----

26 CROSS-EXAMINATION BY MR. LEGG:

27 Q. Mr. McLellan, I want to ask you a
28 few questions about the terms of reference of this
29 Committee. I don't know that you answered Mr. Jacques
30 when he put that question to you. What were the terms



1 of reference of this Committee? What was its purpose?

2 A. The purpose was to --

3 Q. You are reading from some memorandum,
4 sir?

5 A. That is correct.

6 Q. Is that some interdepartmental
7 memo that is refreshing your memory?

8 A. That is correct.

9 Q. What is the date of that?

10 A. The terms of reference of this
11 Committee was to investigate a submission by the
12 New Westminster Pilotage Commission complaining about
13 the fact that the pilots had refused to take bridge-aft
14 ships through the swing span of the New Westminster
15 railway bridge.

16 Q. Let us get things straight. What
17 is the date of your terms of reference? What is the
18 date of origin of your terms of reference?

19 A. It was in June, 1962.

20 Q. June, 1962. Now, another thing
21 I want to be clear on; what did give rise to the
22 formation of the Committee? Was it the filing of a
23 brief by the New Westminster Harbours Commission or
24 was it the filing of a brief by the New Westminster
25 Pilotage Authority?

26 A. I believe it was the Pilotage
27 Authority.

28 Q. Are you sure of that?

29 A. A Pilotage Commission.

30 Q. Just take your time.



1 A. The New Westminster District
2 Pilotage Commission.

3 Q. Do you have a copy of that brief,
4 because it must be a matter of public record now. That
5 brief was delivered to you?

6 A. Yes.

7 Q. Can you produce it, please, so
8 we will understand what you are talking about?

9 A. I haven't got a copy of that here
10 now.

11 Q. You do not have a copy in your
12 file?

13 A. Not in this one anyway.

14 Q. Well, you are satisfied in your
15 own mind that it was the brief filed by the New
16 Westminster Pilotage Authority?

17 A. I am satisfied, yes.

18 Q. Now, to whom was the brief addressed?
19 Can you help us there?

20 A. I am speaking from memory so I
21 would say it was addressed to the Department of Trans-
22 port, the Minister of Transport. I mean, I would like
23 to qualify that because I haven't got the brief here
24 and I don't know.

25 Q. But you are satisfied that the
26 substance of the brief was an explanation of the
27 refusal of the pilots to take bridge-aft vessels
28 through the Fraser River railway bridge?

29 A. Was it an explanation of that
30 position?



1 Q. What were they beefing about?

2 A. That it was unsafe to take --

3 Q. It was unsafe to take bridge-aft
4 vessels through the Fraser River railway bridge?

5 A. That is correct.

6 Q. They were particularly having
7 reference to bridge-aft vessels?

8 A. Larger vessels, but in particular
9 bridge-aft.

10 Q. And the reason for this was because
11 of the poor visibility from the place of steerage on
12 the bridge-aft vessels?

13 A. That is correct.

14 Q. You understood that?

15 A. Yes.

16 Q. Therefore it was, as you understood
17 it, the terms of reference of this Committee to look
18 into this question of this complaint by the pilots?

19 A. That is right, to see if it was
20 economically advisable to put --

21 Q. So the responsibilities of this
22 Committee, at any rate, went beyond that of looking
23 into the operation and the maintenance of bridges?

24 A. That is correct.

25 Q. In connection with that, did they
26 follow the proceedings of this Commission?

27 A. No. The proceedings of the
28 Commission would be collected and would be considered.
29 This is the gist of the last meeting that when all the
30 evidence before this Commission was in, then we would



1 go further with the study.

2 Q. You were going to wait until
3 the evidence was collected rather than look at the
4 evidence as it was given of complaints and so forth?

5 A. Yes.

6 Q. Was that the policy of the --

7 A. I assume that was the policy
8 because that is what has happened.

9 Q. You were a member of the Committee
10 and can say what the policy of that Committee was.

11 A. There hasn't been a meeting since
12 the Chairman said he would wait --

13 Q. It seems to be one of these
14 Standing Committees?

15 A. That is correct.

16 Q. It has not met since 1962?

17 A. Correct.

18 Q. Well, you, as a member of that
19 Committee, were aware that the Pilotage Commission
20 was holding hearings in New Westminster?

21 A. That is correct.

22 Q. And you were aware that officials
23 of your Department in fact gave evidence before that
24 Commission?

25 A. I wasn't until Friday.

26 Q. Until Friday, just recently?

27 A. Yes.

28 Q. Now, has any attempt been made by
29 any member of that Committee to obtain the evidence
30 given before this Commission?



1 A. Not that I know of.

2 Q. When did you first become aware
3 that the subject matter of the pilotage and the
4 Fraser River bridge was being discussed before this
5 Commission?

6 A. I don't know.

7 Q. You don't know, but it was sometime
8 previous to your attendance before this Commission
9 today, was it not?

10 A. It was what?

11 Q. It was sometime previous before
12 your attendance before this Commission today? You
13 haven't learned it for the first time today?

14 A. No.

15 Q. Did you learn it about a year ago?
16 Wouldn't you?

17 A. Learn what?

18 Q. That the pilots were making
19 complaints in regard to the railway bridge before
20 this Commission?

21 A. That is correct.

22 Q. You knew a transcript was being
23 maintained of the proceedings of this Commission?

24 A. Yes.

25 Q. And no effort was made to obtain
26 a copy of the transcript?

27 A. Not yet.

28 Q. You knew also that a brief had been
29 filed on behalf of the pilots, did you not, before
30 this Commission?



1 A. I wouldn't like to say yes or no.

2 Q. You knew that some briefs had been
3 filed before this Commission because I believe you
4 already said you were aware of the New Westminster
5 Harbour Commission?

6 A. We could cut this short if you
7 like. We were waiting for the results of this
8 Commission to proceed.

9 Q. I realize. You have said that.
10 I want to pursue this matter further. The question is
11 whether this was in fact a proper thing to do. Now
12 then, you have said in your evidence before lunch
13 that one of the reasons at the first meeting of this
14 Commission certain information was to be sought from
15 Crown Zellerbach -- do you recall giving that in your
16 evidence?

17 A. I do.

18 Q. That was at the first meeting of
19 this Committee in June or August of 1962?

20 A. Yes.

21 Q. Is that correct?

22 A. That is correct.

23 Q. Now, who was it that proposed that
24 that information should be sought from Crown Zellerbach?

25 A. Who?

26 Q. Who was it that proposed --

27 A. That was a Committee decision.

28 Q. I know it was a Committee decision,
29 but which member of the Committee proposed this?

30 A. Well, I wouldn't like to say that



1 it was any one particular member.

2 Q. You do recall it was Mr. Lang
3 who was delegated the responsibility of obtaining
4 this information?

5 A. Correct.

6 Q. What precisely was the information
7 that Mr. Lang had to obtain?

8 A. We had before us certain infor-
9 mation to the effect that there had been a radical
10 change in Crown Zellerbach's operation over the years.

11 Q. Yes? What was that radical change?

12 A. Change from the shipping of their
13 lumber products primarily, I presume, over the wharf
14 by deep sea ships at Fraser Mill was reduced, and
15 the amount of lumber that was being shipped out by
16 scow for loading in the Lower New Westminster Harbour
17 and Vancouver Harbour was increased.

18 Q. Mr. Lang was instructed to look
19 into this?

20 A. Right.

21 Q. Was he directed as to where he
22 was to make his inquiries?

23 A. He was going to make his -- no,
24 I wouldn't say that he was instructed.

25 Q. Was he given any assistance or
26 any thinking on the part of other members of this
27 Committee as to where he might investigate the
28 information that you wanted to check out?

29 A. I believe he was going to start
30 with New Westminster, asking the New Westminster Harbour



1 Commissioners to get the information for him.

2 Q. Was there any suggestion that he
3 should check with Crown Zellerbach?

4 A. This may have been discussed. I
5 wouldn't know.

6 Q. You can't recall whether or not
7 that was discussed? In any event, now it does seem
8 to you to be the obvious source of inquiry, does it
9 not?

10 A. Not necessarily.

11 Q. Oh, I see. You feel that it is
12 not a sensible source of inquiry to inquire of the
13 very people who would have the best knowledge. Is
14 that your answer?

15 A. No, not that.

16 Q. I see.

17 A. He might not have got it.

18 Q. He might not have got it from the
19 best source? Is that your answer?

20 A. Crown Zellerbach had certain
21 definite --

22 Q. You attribute to Crown Zellerbach
23 certain motives of trying to get rid of this bridge
24 even though their policy may have been to use scow
25 shipments in any event?

26 A. Crown Zellerbach stood to gain.

27 Q. You are attributing that motive
28 to Crown Zellerbach, are you not?

29 A. I don't blame them.

30 Q. You do, therefore, attribute that



1 motive to Crown Zellerbach? Do you attribute that
2 motive to Crown Zellerbach, Mr. McLellan? I am asking
3 you a question now under oath. Do you attribute
4 that motive to Crown Zellerbach?

5 A. Crown Zellerbach had given us
6 certain information.

7 Q. When was that, sir?

8 A. I beg your pardon?

9 Q. When was that? When did they
10 give you certain information?

11 A. I couldn't tell you except it
12 was before the Commission meeting, or at least before
13 the Committee meeting.

14 Q. How had they given you that
15 information?

16 A. It was at that Committee meeting
17 we had certain information.

18 Q. Just a moment. I am talking
19 about information given by Crown Zellerbach that you
20 are referring to in your testimony. What information
21 are you referring to?

22 A. It had to do with figures on the
23 reduction of deep sea shipments and the increase of
24 scow shipments.

25 Q. That information had been given
26 to this Committee by Crown Zellerbach?

27 A. I wouldn't say -- I say this
28 information was before us.

29 Q. The information was before you?

30 A. It may have come through the New



1 Westminster Harbour Commission and --

2 Q. At that time did you attribute
3 to Crown Zellerbach the motive of wishing to get rid
4 of this bridge even though their policy might have
5 been to ship by scow?

6 A. This was part.

7 Q. This was certainly in your mind
8 at the time of this initial discussion?

9 A. Let's put it this way: This was
10 a possibility in the minds of several members.

11 Q. It was discussed among the members
12 of the Committee?

13 A. Yes.

14 Q. Was any determination made as to
15 what inquiries should be made to find out whether
16 that idea was based upon fact?

17 A. Well, this was what Mr. Lang was
18 attempting to do.

19 Q. Mr. Lang had in mind the particular
20 idea to find out whether in fact Crown Zellerbach's
21 position of getting rid of the bridge because of the
22 restriction to navigation was well founded?

23 A. Yes.

24 Q. What did Mr. Lang do in terms of
25 making any inquiry?

26 A. It would be best to ask Mr. Lang.

27 Q. You don't know what inquiries Mr.
28 Lang made?

29 A. No.

30 Q. Yet you came before this Commission



1 this morning and gave --

2 A. I came before the Commission and
3 said Mr. Lang had been unable to get this information.

4 Q. If I understood you to say this
5 morning one of the reasons for the meeting in
6 December of 1962 was to get certain information from
7 Crown Zellerbach, then I didn't --

8 A. Not just Crown Zellerbach. It
9 was substantiation, but it was Crown Zellerbach's
10 figures. We had to have some substantiation.

11 Q. Let's go to what Mr. Lang in fact
12 did.

13 A. I shouldn't say "substantiation".
14 Interpretation of their figures. After all, we weren't
15 questioning that the figures were correct or incorrect.
16 It was a matter of whether this was --

17 Q. Did Mr. Lang write any letters
18 of inquiry to Crown Zellerbach?

19 A. You would have to ask Mr. Lang.
20 I don't know.

21 Q. Surely, Mr. McLellan, you know
22 whether or not any letters were written because Mr.
23 Lang reported back to the Committee as to the results
24 of his inquiry, did he not?

25 A. He reported back he was unable
26 to obtain information.

27 Q. Did he use those exact words?

28 A. I wouldn't like to say he used
29 those exact words or any other words.

30 Q. He merely said he didn't have this



1 information?

2 A. That is correct.

3 Q. He didn't say he was unable to
4 obtain it, did he?

5 A. I --

6 Q. You can't remember?

7 A. I can't say that one way or the
8 other.

9 Q. You can't say that one way or the
10 other? Let's go to what in fact inquiries you made of
11 Mr. Lang of what information he got and from what
12 source. Did you make any inquiries from Mr. Lang as
13 to what information he got?

14 A. I did not. No, I did not. Let's
15 put it this way: I don't remember having made any. I
16 was one member of the Committee, and he was giving
17 his story.

18 Q. Did you find out whether or not
19 he had written any inquiries by letter to either Crown
20 Zellerbach or the New Westminster Harbour Commission?

21 A. I don't -- I couldn't say anything
22 with respect to Crown Zellerbach. I would assume that
23 would be his method of obtaining information, from the
24 New Westminster Harbour Commission.

25 Q. He didn't go out to British Columbia
26 to make those inquiries personally?

27 A. No, he did not.

28 Q. By letter would be the usual means
29 of making his inquiries? This would be the normal
30 means of making his inquiry?



1 A. By letter.

2 Q. Can you produce to this Commission
3 any copies of correspondence from the Department of
4 Transport or the Department of Public Works seeking
5 information of the nature you prescribe?

6 A. I couldn't say whether Transport --

7 Q. Let's deal with your own Department,
8 or your own Public Works. Have you looked through the
9 files of the Department of Public Works to find out
10 whether any letters had been sent to the New Westminster
11 Harbour Commission to verify or obtain information of
12 the sort you prescribe?

13 A. It wouldn't show. We would never
14 write to the New Westminster Harbour Commission from
15 our Department.

16 Q. Your evidence is then the Public
17 Works Department has not, in fact, written for information
18 of the type you have prescribed to the New Westminster
19 Harbour Commission; is that correct?

20 A. We wouldn't write to the New
21 Westminster Harbour Commission, but the Department of
22 Transport --

23 Q. You have already told His Lordship
24 you wouldn't write to Crown Zellerbach or you wouldn't
25 make any inquiries of Crown Zellerbach?

26 A. I have no knowledge of them having
27 been made. There is a possibility. We could write to
28 them, yes.

29 Q. It is possible you could write a
30 letter?



1 A. To them, yes, quite definitely.

2 Q. To Crown Zellerbach?

3 A. Our Department could, yes.

4 Q. Have you made any inquiries to
5 prepare yourself to give evidence today as to whether
6 or not those letters were written?

7 A. No.

8 Q. Would it surprise you if no such
9 letters had been written?

10 A. It wouldn't have surprised me.

11 Q. It would not surprise you if no
12 such letters had been written? We have exhausted the
13 New Westminster Harbour Commission and we have exhausted
14 Crown Zellerbach. What other source of information did
15 you have or did you inquire from?

16 A. To the best of my knowledge, none.

17 Q. And it was with that information
18 that you made your statements this morning regarding
19 failure to obtain certain information from Crown
20 Zellerbach and the New Westminster Harbour Commission;
21 is that correct?

22 A. This is right.

23 Q. Thank you. Is it so your Committee
24 has not studied any of the transcript of evidence before
25 this?

26 A. Not as a Committee, no.

27 Q. Any member of the Department of
28 Public Works, to your knowledge?

29 A. Not to my knowledge. It is possible,
30 of course, that Mr. Daly has.



1 Q. You have heard my question of Mr.
2 Millar this morning?

3 A. Yes.

4 Q. To the same effect. You have had
5 an opportunity to find out whether or not anyone in
6 the Department of Public Works has looked at the
7 transcript of evidence before this Commission, have
8 you not?

9 A. I guess, yes.

10 Q. You have discussed this with Mr.
11 Millar during the adjournment?

12 A. Yes. I read part of the transcript
13 this morning.

14 Q. You know in your own conscience, Mr.
15 McLellan, that no such study has been made by the
16 Department of Public Works?

17 A. Yes, that is correct.

18 Q. No attempt has been made to find
19 out what the pattern of sailing bridge-aft vessels
20 up the Fraser River has been over the past four or five
21 years by the Department of Public Works?

22 A. When you say "up the River", how far?

23 Q. I mean through the Fraser River
24 bridge.

25 A. It is my understanding they won't
26 take them through.

27 Q. They won't take them through,
28 therefore no inquiry has been made?

29 A. That is correct.

30 Q. Is that your understanding of the



1 attitude of the Department of Public Works?

2 A. Again you are starting to move out
3 of the area of which I have responsibility.

4 Q. All right. What is the attitude of
5 this Committee?

6 A. The attitude of this Committee was
7 we should wait and see the transcript of evidence of
8 this Commission.

9 Q. You heard Mr. Millar say this
10 morning he thought you could give a better explanation
11 than he could as to the number of bridge-aft ships
12 attempting to sail through the Fraser River bridge?

13 A. That was Mr. Millar's opinion.

14 Q. He was incorrect in that, was he?

15 A. Yes.

16 Q. You have made no study of the
17 sailings of bridge-aft vessels through the Fraser River
18 bridge?

19 A. No, I have not.

20 Q. And you can suggest no one else in
21 the Department who is better equipped to answer that
22 question than you or Mr. Millar?

23 A. Perhaps if the question had been
24 asked of the District officials, they might have been
25 able to give better answers.

26 Q. Do you refer to the District officials
27 in the Port of Vancouver and New Westminster?

28 A. Stationed in Vancouver, but they
29 operate in --

30 Q. They operate in the Vancouver area;



1 is that your answer?

2 A. Yes.

3 Q. Mr. Millar also suggested you might
4 be able to help us as to some statements as to the
5 life of the Fraser River railway bridge; can you do
6 that, Mr. McLellan?

7 A. I could guess.

8 Q. You can make a guess? Is that
9 guess based upon any inspection of the bridge?

10 A. No.

11 Q. Is it based upon any first-hand
12 knowledge of the bridge and this particular --

13 A. When you say "first-hand knowledge",
14 do you mean whether it is in good shape or not?

15 Q. First-hand knowledge based on
16 inspection of the bridge, sir. Have you ever inspected
17 the bridge?

18 A. I have never inspected the bridge
19 in recent years.

20 Q. Would you as an engineer agree with
21 me that at least one should have some knowledge from
22 an inspection of the bridge before you could give some
23 accurate forecast as to the life of the bridge?

24 A. You would have to have reports of
25 others, engineers.

26 Q. I didn't ask you that. I said would
27 you agree with me as an engineer you should have the
28 advantage of having made a personal inspection of the
29 bridge?

30 A. To be anything -- to be a good



1 estimate, yes.

2 Q. To be a good estimate, yes. To
3 what extent, if any, did you confer with Mr. Millar in
4 the preparation of the questionnaire and answers which
5 werefiled to the Crown Zellerbach questionnaire, Exhibit
6 1171? This is the Crown Zellerbach questionnaire,
7 and the answers filed on behalf of the Department of
8 Public Works.

9 A. The only part I had anything to do
10 with was the collection of the information on revenues.

11 Q. You have no knowledge then, or do
12 you have any knowledge of the references in the items
13 on revenues to payments for damage to the bridge
14 through accidents?

15 A. That particular --

16 Q. Would you like to see the revenue?

17 A. No, never mind.

18 Q. Page 3 of Exhibit 1171 shows, does
19 it not, that there have been a number of accidents since
20 1951?

21 A. Yes.

22 Q. Up to and including 1962, and in
23 certain periods of time they have been quite substantial?

24 A. Yes.

25 Q. I am referring to an item of \$43,714.00
26 of damage in the period of 1961 to 1962. Do you see
27 that? Would you please say yes?

28 A. Yes, I see that. These figures came
29 from Treasury Office.

30 Q. Have you --



1 A. When you mention accidents, I have
2 been involved with processing papers on quite a number
3 of accidents over the years.

4 Q. Yes, and has that processing revealed
5 to you that the bridge is a navigational hazard?

6 A. It appears to be, yes.

7 Q. Is it also indicated by the figures
8 in damages that have been paid and which are mentioned
9 on page 3 of the Appendix to Exhibit 1171?

10 A. Come again, please. I didn't hear
11 your question.

12 Q. I was referring to the items of
13 damage listed, and I am asking you whether you agree
14 that those items of damage do indicate also that the
15 bridge is a navigational hazard?

16 A. Well, people run into it; let's
17 put it that way.

18 Q. That would indicate to you that
19 it is a navigational hazard; would it?

20 A. I am of the opinion that the bridge
21 is not a very good thing to have there.

22 THE SECRETARY: What reference was this, Mr.
23 Legg? Was this a reference to the questionnaire?

24 MR. LEGG: I am sorry, My Lord. Exhibit 1171
25 is the questionnaire and the answers and on page 3 of
26 the Appendix B there is an addition to the revenue figures,
27 these items, which for clarification, in view of Mr.
28 Nadeau's question, I will read into the record.
29 It is noted under "Miscellaneous Revenues". Note 2;
30 amount shown represents settlement of claims resulting



1 from damages to the bridge. For the period 1951 to
2 1952 there was the sum of \$1,240.00 and against that
3 item is noted the name Island Tug and Barge Limited;
4 1955 to 1956, \$34,787.00, and the simple explanation,
5 "Details not now available." 1961-1962, sub-item A,
6 \$43,714.00, Island Tug and Barge Limited. Sub-item D,
7 \$4,075.00, The Maysole Towing Division of Evans,
8 Coleman and Evans. Those are the items I was referring
9 to in my questions to you, Mr. McLellan.

10 -----

11 RE-EXAMINATION BY MR. JACQUES:

12 Q. I have one question. You said you
13 processed a few accidents to the bridge; is that
14 correct?

15 A. Yes, that is correct.

16 Q. Do you recall the nature of those
17 accidents?

18 A. The ones that I have handled in
19 most cases were a case of a hulk undertow usually
20 loaded with wood chips hitting the protection piers,
21 either the center protection pier or the pier protecting
22 the fixed end of the bridge at the south end. On one
23 occasion the swing span, the steel work itself, was
24 damaged.

25 Q. By one of those hulks?

26 A. A hulk in this particular instance,
27 yes.

28 THE CHAIRMAN: Are there any further questions
29 of Mr. McLellan? Thank you very much.

30 ---Witness withdrew.



1 MR. LEGG: My Lord, may I ask Mr. Millar to
2 be recalled to the witness box? I have some questions
3 for him in view of his evidence this morning.

4 THE CHAIRMAN: Very well.

5 H. M. MILLAR, Recalled

6 THE CHAIRMAN: You are under the same oath.

7 FURTHER CROSS-EXAMINATION BY MR. LEGG:

8 Q. Mr. Millar, this morning we had
9 a discussion about the estimate that you gave of
10 \$8,000,000.00 in the Answer 8. Now you told me that
11 this was based upon some information that you had
12 obtained from Mr. Jenkins. Was that information
13 obtained as the result of a telephone conversation?

14 A. No, it was obtained at a meeting.

15 Q. Where did the meeting take place?

16 A. The meeting took place in the
17 Department of Transport.

18 Q. Who was present at that meeting?

19 A. If you wish, I have it on file.
20 Present at the meeting were Messrs. D. A. Scott.

21 Q. What is his position, please?

22 A. Assistant Deputy Minister of
23 Economic Policy and Research of the Department of
24 Transport.

25 Q. And who else?

26 A. Mr. M. J. Darling, Chief Economist,
27 Marine and Rail, Department of Transport.

28 Q. And who else?

29 A. Mr. E. F. Purvis.

30 Q. What is his position, please?



1 A. Vice-President, Canadian National
2 Railways.

3 Q. Who else was present?

4 A. Mr. T. H. Jenkins, Bridge Engineer
5 of the Canadian Railways. Mr. J. J. McLellan, Harbours
6 and Rivers Branch, Department of Public Works.

7 Q. Yes?

8 A. Mr. G. Rivest of the Economic
9 Studies Branch of the Department of Public Works.
10 And myself.

11 Q. And yourself, and it was Mr. Jenkins
12 to whom you attributed the estimate of \$8,000,000.00?

13 A. Yes.

14 Q. I want to tell you quite frankly
15 that since hearing your evidence this morning I have
16 spoken to Mr. Jenkins by phone. He describes his
17 estimate as a "guesstimate". Would you be frank enough
18 to agree with that description of the \$8,000,000.00
19 figure?

20 A. If Mr. Jenkins said so, I would
21 accept that.

22 Q. I am asking you now for your
23 recollection of what was discussed at that meeting?

24 A. The meeting was not in connection
25 with the New Westminster bridge or the replacement of
26 the bridge span.

27 Q. I see. Then it was entirely
28 collateral and incidental to the business of this meeting
29 that any discussion about the cost of replacing the
30 swing span with a lift span took place?



1 A. That is correct.

2 Q. On that occasion you had a short
3 discussion with Mr. Jenkins?

4 A. That is correct.

5 Q. And it would be fair to describe
6 that discussion of \$8,000,000.00 as a "guesstimate"?

7 A. As Mr. Jenkins said so, that is
8 a correct statement.

9 Q. I am asking you now for your
10 recollection of what took place?

11 A. Your statement is correct.

12 Q. You would not quarrel with my
13 description attributed to Mr. Jenkins of a "guesstimate"?

14 A. No, I would not.

15 COMMISSIONER SMITH: My Lord, I would like
16 to ask the witness if he has in his record or in his
17 memory any breakdown of the \$8,000,000.00. I understand
18 part of that was in connection with the bridge proper,
19 part of that was in connection with running expenses
20 involved because they would have to re-route railroad
21 trains up to Sumas and other places, and there may have
22 been some other incidental expenses away from the
23 bridge proper.

24 THE WITNESS: That is correct, I am sure.

25 COMMISSIONER SMITH: Have you a breakdown
26 of those? How much for the bridge span?

27 THE WITNESS: No, I have not.

28 COMMISSIONER SMITH: Not on your record
29 either?

30 THE WITNESS: No, I have not.



1 MR. LEGG: Q. May I ask one further
2 question arising out of Mr. Smith's questioning? Have
3 you a record of the width of the span upon which this
4 \$8,000,000.00 figure was based?

5 A. I have no record.

6 Q. You realize that ---

7 A. My recollection of our discussion
8 was that the width of span was greater than that
9 mentioned in the Swan Wooster report.

10 Q. Yes. I was just going to say that
11 the information I have from Mr. Jenkins is that any
12 estimate such as \$8,000,000.00 was based upon a
13 width of 450 feet.

14 A. Yes.

15 Q. And that as an engineer you would
16 recognize that would considerably increase the estimate
17 above a bridge with a span of, say, 350 feet?

18 A. There is no doubt about that
19 whatsoever. However, this is only one of the factors
20 which would be investigated in any consideration of
21 a new bridge on the present site. Mr. McLellan
22 mentioned this morning that the bridge is a navigational
23 hazard. This is accepted and it has also been brought
24 out, I think, in evidence that the recommendations
25 concerning the lift span were made 30 years ago and
26 naturally as an engineer you would reconsider those
27 elements now.

28 Q. There was no suggestion as to any
29 particular dimensions of the span in the recommendations
30 made in 1936 however?



1 A. No.
2 Q. Certainly not a 450 foot span?
3 A. Certainly not, no.
4 Q. In fact this one reads between the
5 lines, as it were, the replacement of a swing span with
6 a lift span, the distance you get is 350 feet, is it
7 not?

8 A. You get approximately twice....
9 Q. Approximately twice?
10 A. Twice the existing span width, yes.
11 Q. And that is, as you recognize,
12 approximately 340 to 350 feet?

13 A. That is correct -- 171 feet, I
14 think.

15 -----

16 RE-DIRECT EXAMINATION BY MR. JACQUES:

17 Q. It is not at all clear in my mind
18 when the Department first became aware of navigational
19 difficulties.

20 A. Attributable to the bridge-aft
21 shipping do you mean?

22 Q. Let us say navigation in general
23 first. You were presented with a brief from 30 years
24 ago to convert the swing span to a lift span. Was the
25 request based then on navigational difficulties?

26 A. Yes, I should say they were.

27 Q. It was based on navigational
28 difficulties?

29 A. I should say they were, yes.

30 Q. To the best of your recollection,



1 when did your Department first become aware of the
2 restrictions placed by pilots on traffic through the
3 bridge with respect to bridge-aft ships?

4 A. With regard to bridge-aft ships
5 I think this is comparatively recently. Possibly I
6 can find it. Yes, it was on May 22nd, 1962.

7 Q. May 22nd, 1962, and how was that
8 fact brought to your attention?

9 A. We received through the Department
10 of Transport copies of a letter received from the New
11 Westminster Harbour Commissioners.

12 Q. Would you have the date of the letter?

13 A. From the Department of Transport?

14 Q. No, no, from the Harbour Commissioners?

15 A. There is a letter dated the 17th
16 April, 1962.

17 Q. The letter from the Harbour
18 Commissioners to the Department?

19 A. No; this is from the New Westminster
20 District Pilotage Authority.

21 Q. I see.

22 A. To the Port Manager of the New
23 Westminster Harbour Commissioners.

24 Q. And that letter is dated?

25 A. 17th April, 1962.

26 Q. I see, and you received a copy of
27 that letter on the 22nd May, 1962?

28 A. That is correct.

29 Q. Through the Department of Transport,
30 I believe you said?



1 A. Through the Department of Transport,
2 yes.

3 Q. Did the Department of Transport
4 then offer any comment on the navigational aspect
5 of the problem?

6 A. They requested that this be drawn
7 to the attention of the officers of our Department
8 dealing with the matter.

9 Q. And did they then take a stand
10 with respect to, let us say, the opinions of the
11 pilots?

12 A. I have no direct information
13 bearing on this point. It is certainly not contained
14 in the letter to which I am referring now.

15 Q. At any time since May, 1962, have
16 you received any intimation of what the Department
17 of Transport's opinion might be with respect to the
18 navigational problems?

19 A. I can give you the substance of
20 the letter in reply.

21 Q. Yes?

22 A. Dated the 7th June, 1962 from the
23 Department of Public Works to the Department of
24 Transport.

25 Q. Yes?

26 A. It indicates that the pilots'
27 contention that it would be hazardous to take the larger
28 types of boats through the swing span was not unreason-
29 able.

30 Q. Sir, I should like to show you



1 Exhibit 186, which is a photocopy of a letter addressed
2 by the Secretary of the New Westminster District
3 Pilotage Authority to the Port Manager, New
4 Westminster Harbour Commission. Would you peruse that
5 letter and tell me ---

6 A. I recognize it.

7 Q. This is the letter to which you
8 have referred?

9 A. This is the letter to which I have
10 referred, yes, sir. May I just add what further is
11 contained in our comments on that?

12 Q. Yes.

13 A. We accepted that their contention
14 was not unreasonable. We went on to suggest that
15 before considering any alterations in the swing span
16 of the bridge we must first establish the need for the
17 larger boats to navigate above the bridge. This led to
18 the formation of the Committee about which we have heard.

19 "With this in mind I am having
20 Economic Studies and Harbours
21 and Rivers Branch form a
22 Committee to take a study of
23 the economic need for deep sea
24 navigation above the bridge and
25 the cost of the necessary
26 improvement to the channel and
27 the maintenance."

28 Q. So it was first an economic study;
29 that is what it was designed to be?

30 A. Yes.



1 Q. The need for traffic to go above
2 the bridge?

3 A. May I add something?

4 Q. Yes.

5 A. Possibly it would be as well to
6 make our position clear on the Committee, and I have
7 some notes which I had earlier. In considering this
8 within the Department, one of the points that we
9 felt should be established was the value to the
10 industries using the bridge contrasted with the cost
11 of dredging the upper channel and the effect on
12 navigation of replacing the swing span. Subsequently
13 it was our feeling that it would be difficult to justify
14 any major reconstruction unless it be shown that the
15 direct benefits to the users involved corresponded to
16 the real annual costs.

17 Now, another consideration which
18 I mentioned earlier is that the findings of the
19 Committee -- we have heard it has not met recently --
20 were dependent not only upon the briefs submitted to
21 this Commission but also on the future requirement of
22 the railway, and, as I mentioned in my testimony earlier,
23 navigation is only one of a number of factors involved
24 in reaching a decision on a matter which may cost
25 anywhere between two and possibly eight million dollars.

26 Q. I see. Following my questioning
27 of Mr. McLellan, Mr. McLellan said that the duty of
28 the Department was in connection with operating and
29 maintaining bridges and his answers seemed to imply that
30 your Department should not worry whether these bridges



1 may form obstacles to navigation. Is that a correct
2 statement of the policy of the Department?

3 A. I cannot think that Mr. McLellan
4 intended to suggest that.

5 Q. I am sure he did not.

6 A. Naturally the Department is
7 concerned, as I pointed out this morning, with the
8 hazards which this bridge presents to navigation. It
9 has been concerned with it for some time and subsequent
10 to the earlier brief which the Department received in
11 1961. Then studies were started.

12 Q. The 1961 brief to which you refer,
13 would it be the same brief as has been filed as
14 Exhibit 181 of New Westminster?

15 A. That is the brief.

16 THE CHAIRMAN: I think that what this
17 witness said this morning was that their duties were
18 to maintain the work that is there when they were
19 requested that this be maintained, but they are not
20 going to decide themselves either on rebuilding or
21 replacing it just because it is a hazard on occasion.
22 It is not up to him to decide. His duty is to maintain
23 it. I think that is a fair indication of what he said
24 this morning.

25 THE WITNESS: Thank you, My Lord, and if
26 I could just add a word to that. The Department's
27 present and somewhat unhappy position is that it has
28 the responsibility of maintaining this bridge which
29 is used entirely by the railways and for no other
30 purpose but to serve the railway. However, railway



1 policy is not within the power of the Department to
2 determine. We must do this through other agencies.
3 Furthermore, at the same time, we do receive and are
4 worried by the complaints that are received from
5 shipping interests and we, so to speak, are between
6 the Devil and the deep blue sea and it is a position
7 we really do not appreciate and we certainly would
8 like to see evidence produced which could establish
9 something more satisfactory.

10 Q. In a more cheerful note, who is
11 the Devil and who is the deep blue sea?

12 A. At the present moment I would leave
13 that to you.

14 -----

15 RE-CROSS EXAMINATION BY MR. LEGG:

16 Q. I would like to clarify one point.
17 This interdepartmental Committee of which Mr. McLellan
18 spoke does have in its membership members from the
19 Department of Transport?

20 A. Yes, it does.

21 Q. And they are at a level equivalent
22 to what level in the hierarchy of the Department of
23 Public Works?

24 A. Well, it was under the Chairmanship
25 of the Director of Economic Studies, who is a Branch
26 head, but bear in mind what his primary duties were.

27 Q. This Committee was set up as Mr.
28 McLellan has told us and you have told the Commission
29 to study navigational problems as well as the railway
30 problem.



1 A. Primarily it was an economic
2 Committee as I testified earlier.

3 Q. Navigational and railway aspects
4 of an economical problem?

5 A. Primarily it was to establish what
6 the economic benefits would be by not only alterations
7 to the bridge, if these were warranted, but the cost
8 of dredging the upper channel, which I have mentioned
9 earlier this morning, against the benefits to be
10 derived by industries or shipping interests using the
11 bridge.

12 Q. Am I right to this extent, that
13 the Departments of government concerned with this
14 bridge are the following: There is your Department,
15 the Department of Public Works?

16 A. Yes.

17 Q. Who owns, in effect, the bridge
18 and is responsible for its maintenance?

19 A. Yes.

20 Q. There is the Department of Transport?

21 A. Yes.

22 Q. Who is responsible for what aspect
23 of the bridge?

24 A. Well, when I say "Department",
25 probably I am not quite completely accurate but in fact
26 the railways report through the Minister of Transport.

27 Q. Do you mean the railways report
28 through the Minister of Transport or through the Board
29 of Transport Commissioners?

30 A. I am talking about the Board of



1 Transport Commissions Reports to the Minister.

2 Q. Through the Minister of Transport?

3 A. Yes, and my understanding is that
4 the New Westminster Harbour Commissioners also report
5 to the Minister of -- or Department of Transport. I
6 stand to be corrected on that point.

7 Q. In any event this interdepartmental
8 Committee was conceived with the idea to make sure that
9 all who had a function and authority in government
10 in respect of this bridge knew about the problem of
11 the bridge?

12 A. Yes.

13 Q. That was one of the purposes of
14 establishing this interdepartmental Committee?

15 A. Yes. It is one of the Committees
16 studying the problem.

17 Q. One of the Committees -- oh, are
18 there others? Let us go on, Mr. Millar.

19 A. Well, I will not be able to say a
20 great deal about this because there is another Committee
21 on which this Department is represented under the
22 Chairmanship of the Department of Transport.

23 Q. There is another Committee, inter-
24 departmental Committee in addition to interdepartmental
25 Committee number one?

26 A. Well, with a different purpose. I
27 have indicated to you what the purpose was of the
28 Department of Public Works Committee.

29 Q. Yes. It is described as the
30 Department of Public Works Committee?



1 A. It is under the Chairmanship of
2 the Department of Public Works.

3 Q. It is an interdepartmental Committee
4 run by the Department of Public Works?

5 A. The Chairman is provided by the
6 Department of Public Works.

7 Q. Mr. McLellan is a member of that
8 Committee?

9 A. That is correct.

10 Q. There is another interdepartmental
11 Committee?

12 A. Yes.

13 Q. What is its constitution, please?

14 A. I don't know.

15 Q. Does it have members from the
16 Department of Public Works on it?

17 A. Oh, yes. I cannot say whom. I am
18 not associated with the Committee.

19 Q. Does it have members from the
20 Department of Transport?

21 A. Yes.

22 Q. Is it concerned with any problems
23 to do with the Fraser River railway bridge?

24 A. How directly, I don't know. I
25 should think I am not in a position to give testimony
26 on a Department of Transport Committee.

27 Q. It is chaired by the Department
28 of Transport, is it?

29 A. Yes.

30 Q. Does Mr. McLellan know about this



1 Committee, this second Committee?

2 A. I should very much doubt it. I
3 cannot answer for Mr. McLellan.

4 Q. Is there anyone else in your
5 Department, that is in the Department of Public Works,
6 that can better answer these questions as to the
7 function of this particular Committee?

8 A. I don't think anyone in our
9 Department can answer that because the Committee is the
10 responsibility of the Department of Transport and any
11 questions on that Committee would be better addressed
12 to the Department of Transport.

13 Q. How frequently has this Committee
14 met?

15 A. I am not aware.

16 Q. Do you know whether it has met
17 at all?

18 A. I don't know that.

19 Q. Do you know who in the Department
20 of Transport could best answer these questions?

21 A. From access to the files I should
22 think possibly again it would be improper for me to
23 answer for the Department of Transport.

24 Q. I am only asking for the name of
25 the official, not for what he might say.

26 A. No. I would think possibly that
27 would best be obtained from the Department of Transport.

28 Q. Would you expect it to be the
29 Deputy Minister of Marine or the Assistant Deputy
30 Minister?



1 Q. That is Mr. Stead, is it not?

2 A. That is correct.

3 THE CHAIRMAN: Any further questions from
4 this witness?

5 MR. JACQUES: No, My Lord.

6 THE SECRETARY: May it please Your
7 Lordship, I have one or two questions I would like to
8 have answered if possible from Mr. Millar.

9 We have been dealing with this
10 bridge and it is not of recent vintage. I am not
11 sure whether it is in evidence but I wonder if you
12 know and could tell us the age of this bridge?

13 THE WITNESS: The present age of the bridge
14 is approximately 60 years.

15 THE SECRETARY: Sixty years old?

16 THE WITNESS: Yes.

17 THE SECRETARY : It was put in evidence this
18 morning and this afternoon that the Department asked
19 consulting engineers to investigate and report on the
20 conditions prevailing at the time in order to determine
21 whether it would be feasible or economically possible
22 to convert the swing type of bridge to a lift type and
23 he reported. We also have a copy of this report and
24 it is a privileged document. The Commission has it. I
25 note that the report was prepared in 1947. Could you
26 possibly tell the Commission whether the conditions
27 prevailing at the time the report was made to the
28 Department -- and by conditions I mean traffic conditions
29 -- are the same now as they were then?

30 THE WITNESS: No, sir, they are not the same.



1 At that time, as you know, the steam locomotives were
2 used and since they have converted to diesel locomotion.
3 Therefore, obsolescence in terms of bridge life is
4 not so serious a factor as it was at the time of the
5 report.

6 THE SECRETARY: So that would affect then
7 considerations that were taken into account at the
8 time that the report was made?

9 THE WITNESS: Yes, sir, it would except
10 that obsolescence was only one of the factors con-
11 sidered and not necessarily the most important.

12 THE SECRETARY: Has the Department
13 considered what the life span of the bridge would be
14 as it now exists under present conditions of traffic
15 and so on?

16 THE WITNESS: No.

17 THE SECRETARY: To determine whether it
18 requires to be replaced eventually?

19 THE WITNESS: No, sir. No detailed analysis
20 of this has been made but bearing all factors in mind,
21 that is river conditions, navigational hazard, the
22 life of the bridge and in addition to this other
23 undesirable or undesigned features which all affect
24 the railway operation -- one of these is a sharp curved
25 bridge -- we feel in view of all these factors then
26 that very detailed consideration would have to be given
27 before the mistake was compounded and it is the present
28 view of the Department that probably in the end the best
29 solution might be another crossing of the river at
30 another location; but however, this is dependent again



1 upon a large number of factors. One of the most
2 important is the future plans of the railway.

3 THE SECRETARY: A bridge of this type of
4 approximately the same vintage as the one now over
5 the Fraser River, how long would it be expected to
6 remain as a safe bridge? Is it a matter of a few
7 years?

8 THE WITNESS: At the time Mr. Pratley
9 made his report under the traffic conditions then
10 obtaining, if I remember correctly, he indicated that
11 a further useful life of 12 or 20 years might be
12 expected.

13 THE SECRETARY: That was in 1947?

14 THE WITNESS: That was in 1947 but
15 nevertheless he qualified that statement by saying
16 that obsolescence was very much a factor in the life
17 of the bridge and the traffic using it.

18 THE SECRETARY: I take it it is less than
19 it was then?

20 THE WITNESS: Yes, it is less than, but
21 nevertheless 20 years has passed and it is our view
22 that it would probably not be economically justifiable
23 to expend a great deal of money in carrying out major
24 reconstruction of a bridge which is now so old.

25 THE SECRETARY: Well then, would you agree
26 with me, Mr. Millar, in saying that any serious con-
27 sideration given to the possible conversion of the
28 present bridge from a swing to a lift type would also
29 have to take into account the eventual replacement of
30 the bridge as a whole somewhere else?



1 THE WITNESS: I think that would be a fair
2 statement, sir.

3 THE SECRETARY: The two would go together?

4 THE WITNESS: They must go together.

5 THE SECRETARY: Thank you very much.

6 MR. LEGG: I wish to ask Mr. Millar some
7 further questions.

8 Q. Mr. Millar, you have just answered
9 some questions relating to the future life of the
10 bridge. Do you recall giving evidence this morning
11 and in answer to a question of mine you deferred to
12 Mr. McLellan when I asked you that question?

13 A. Yes.

14 Q. Do you agree you said you were
15 unable to answer the question?

16 A. I said that I had no detailed
17 knowledge of the bridge but my knowledge was based on
18 reading material which was made available to me. I
19 am not speaking with personal knowledge on that.

20 Q. So any answers you gave to Mr. Nadeau
21 just now are on the basis of that restricted information?

22 A. Yes, based on the information which
23 I have studied for the purpose of this inquiry.

24 Q. Is it not so that railway traffic
25 has increased in the period of time from 1948 to 1962?

26 A. I was referring primarily to the
27 loadings. A major factor, I understand, is the
28 change from steam to diesel locomotion.

29 Q. The total number of cars plays no
30 part in this? The total annual number of cars increasing



1 over the years plays no part in the total load?

2 A. I should think I would not wish
3 to stand by that.

4 Q. Your Department has put in this
5 Exhibit?

6 A. Yes, I see.

7 Q. A questionnaire. You have given
8 the Commission statistics of the number of cars that
9 pass over the bridge?

10 A. That is correct. I am looking at
11 that now.

12 Q. You are looking at Appendix B?

13 A. C.

14 Q. This shows the number of railway
15 cars has increased?

16 A. That is correct.

17 Q. From a figure of 200-odd thousand
18 in 1948-1949 to a figure in excess of 300,000?

19 A. That is correct.

20 Q. And that has been a gradual
21 increase over the years?

22 A. Yes.

23 Q. That would indicate increased
24 traffic over the bridge?

25 A. Yes, it would. It would indicate
26 increased traffic over the bridge.

27 Q. Would it not indicate increased
28 loading of the bridge?

29 A. Yes, it would.

30 THE CHAIRMAN: Are there any further



1 questions of Mr. Millar?

2 Thank you very much, Mr. Millar.
3 We are going to have a short adjournment but before
4 we do that I would like to give some information to
5 counsel with regard to the proposed agenda for the
6 future. We have just a contemplated agenda.

7 We have three weeks in October
8 as follows: On the 19th of October that full week
9 will be for hearings. The week of the 26th will be
10 taken by the Commission for a trip to New York to
11 see the pilots at work in the New York Harbour, which
12 was referred to as a very efficient operation so we
13 planned for quite a long time to go there and I think
14 that will be the right time to go.

15 Then the week of the 2nd of
16 November if there is still evidence to be adduced,
17 we will finish the evidence then.

18 Then we would adjourn and reconvene
19 on November 23rd for pleadings. All these dates are
20 on Monday and pleadings will continue the next week,
21 the week of the 30th of November, if necessary.

22 As I told some counsel, we plan to
23 allot a day or a fixed date for counsel so that he
24 would not be obliged to wait here for days or even if
25 somebody would take only a few hours for the pleadings,
26 and that is all we had for that day, then we would
27 adjourn to the day after and hear from another counsel.
28 But we are going to try to group the lawyers that are
29 interested in one particular place together. That would
30 mean the Maritimes would come together, the West Coast



1 and then St. Lawrence and the Great Lakes. But this is
2 only a contemplated agenda and should you have any
3 remarks, we might discuss them.

4 We will adjourn now for a short
5 recess.

6 ---A SHORT RECESS.

7 -----

8 MR. LEGG: My Lord, I have Mr. Swan of
9 Swan Wooster Engineering with me, and I would like to
10 call him to the witness box to discuss the evidence
11 that is covered in Exhibit 182, previously filed.

12 THE CHAIRMAN: Right.

13 COLONEL WILLIAM GEORGE SWAN, Sworn

14 DIRECT EXAMINATION BY MR. LEGG:

15 Q. Mr. Swan, would you please give
16 to the members of the Commission your professional
17 qualifications?

18 A. I graduated in engineering from
19 the University of Toronto in 1906. Worked for about
20 12 years. Spent 4 years in the first war. Came back
21 and became Chief Engineer of Vancouver Harbour
22 Commissioners. Went into private practice, 1925,
23 was then appointed consulting engineer to the Vancouver
24 Harbour Commission, which I left as Chief Engineer,
25 and in 1928 became consultant to the New Westminster
26 Harbour Board.

27 Between the period of setting up
28 my own business, consulting business, in 1925 and 1939
29 when I went back into the Armed Forces again, one of
30 the largest projects which we had was the designing and



1 supervising of construction of the Pattullo Bridge.
2 I had a staff at that time of about 30. They dwindled
3 away to very few during the wartime, but in British
4 Columbia we have designed four out of seven -- designed
5 and supervised construction of four out of seven
6 of the major bridges in British Columbia.

7 Q. Colonel Swan, it may be modesty
8 on your part, but may I remind you you do hold some
9 distinguished awards. You hold the Order of the
10 British Empire, Distinguished Service Order, Croix
11 de Guerre, and you have two degrees, Bachelor of
12 Science and Doctor of Science, and you also hold the
13 M.E.I.C in Engineering?

14 A. Thank you.

15 Q. You are, of course, President of
16 Swan Wooster?

17 A. President of Swan Wooster Engineering
18 Company, that is right.

19 Q. They are a firm of consulting
20 engineers established in Vancouver?

21 A. Offices in Vancouver, Montreal,
22 St. Catharines and Portland, Oregon.

23 Q. Now, Colonel Swan, you have in
24 front of you a letter dated March 1st, 1961 addressed
25 to Captain J. Clayton, Port Manager, New Westminster
26 Harbour Commission. It bears a signature. Do you
27 have a facsimile of that document in front of you?

28 A. I have.

29 Q. For the record, that is Exhibit 182
30 in these hearings, My Lord.



1 Would you tell the Commission what
2 led you to make the estimate and the report that is
3 Exhibit 182, Colonel?

4 A. Well, the New Westminster Harbour
5 Board for whom I have acted since 1928 as consulting
6 engineer were concerned about navigation through the
7 railway bridge, to some extent through their own
8 bridge, and although there has never been any damage
9 done there because there was an overhaul in the major
10 span which left 400 feet for passageway, but they
11 were concerned about damage that was being done from
12 time to time to the works of the existing bridge,
13 more particularly to the breast pier of the swing
14 span.

15 The matter was discussed, and we
16 were authorized to make an examination of present-day
17 costs of replacing the present swing span with a
18 vertical lift.

19 Q. Is the opinion that you came to
20 set out in Exhibit 182?

21 A. It is.

22 Q. Would you explain to the Commission
23 just in a general way, particularly with reference
24 to the diagram attached to Exhibit 182, just how the
25 swing span could be converted to a lift span?

26 A. Well, the initial operation would
27 be construction in the bay caused by the swing span
28 to build the two piers which would carry the vertical
29 columns which carry the vertical lift span.

30 The plan which I show you here I



1 think can be improved upon to some extent, and to
2 effect a further economy, or to effect an economy,
3 instead of carrying the piers down as we have shown
4 in this plan, which we have estimated in our estimated
5 cost, and in view of what took place in the construction
6 of the Okanagan Lake bridge, there we drove the
7 piles down -- the piers on the south portion of this
8 New Westminster bridge, the railway bridge, cut them
9 off under water at one end 85 feet and the other end
10 25 feet, so there is no great problem in cutting off
11 your pilings due to depth of water.

12 Then these concrete caissons which
13 are made to form piers are built and launched at a
14 different site. They are floated into place. They
15 are watertight. They are waterproof. The valve is
16 opened up and the additional weight is added to the
17 so-called piers until their full weight is distributed
18 over the piling.

19 It would probably take two to
20 three weeks before it settled. There would be probably
21 slight movement in the piers from one side to the other
22 principally through their minor dimensions, and finally
23 they come to rest as in the case of the Okanagan Bridge
24 after about three weeks.

25 In the meantime the vertical lift
26 span will have been constructed and placed on scows,
27 so the only delay that takes place will be the
28 construction of the towers carrying the vertical
29 lift span, for which fabrication of steel already will
30 be prepared in advance, and it is estimated that five



1 or six weeks will be required to erect the towers and
2 install the vertical lift.

3 In the meantime the breast pier
4 and the present swing span will be removed.

5 Another two weeks will be required
6 in order to take care of the electrification and the
7 mechanical equipment. Altogether seven weeks we
8 estimated that it would tie up traffic.

9 Should I speak of the condition of
10 the bridge?

11 Q. Yes. I was just going to ask you
12 before you went on to that what is the dimension of
13 the span that you would expect to achieve?

14 A Well, at the present time we have
15 165 feet. We will have 265 feet clear span, and as
16 you know from the plan that has been submitted here,
17 the Pattullo Bridge is 450 overall -- 265 feet of the
18 existing bridge with the new type of span will enable
19 the traffic to move through there, I think, without
20 any hazard whatever.

21 There is a slight -- I shouldn't
22 say "slight" -- at freshet time there is quite a
23 direction of current which comes at an angle of about
24 30 degrees through these two bridges at freshet time.
25 At the east pier this straightens out -- it makes a
26 very good contribution to it. Actually that strikes
27 a short way down, nearly a mile and a half downstream,
28 and it is deflected over to the other side of the river
29 near the elevator. The ships going through at freshet
30 time under these conditions would hold fairly well to



1 the south side of the space, the passage space, under
2 the bridge. I would think it would be almost impossible
3 to have any ship damaged under those conditions,
4 and under any conditions of weather, whether it be
5 freshet or otherwise.

6 Q. The lift span would give a
7 clearance of what dimension?

8 A. Since I started on this report
9 perhaps I had better go back to the estimated cost.

10 Q. Before you do that, will you give
11 the vertical --

12 A. Clearance, 145 feet.

13 Q. Then you were going to say something
14 about estimate of cost?

15 A. Yes, estimated cost as of 1961,
16 the lift span, 100 tons -- that figure checks with
17 the cost of steel today by both steel erection companies
18 in Vancouver which I checked with in the last month.

19 Q. You are referring to the table
20 of estimated costs?

21 A. Lift span and the towers for this.
22 That includes about one-third of the total cost.

23 Q. \$306,000.00?

24 A. \$306,000.00 and \$234,000.00.

25 Q. You are also referring to item 2
26 which is two towers?

27 A. Yes, that is included. That is
28 included in the \$540,000.00.

29 North and south pier.

30 Particularly the north pier, we have



1 shown that pier larger for no very good reason I can
2 find now except it was sitting near a larger pier.
3 I feel quite sure that the estimated cost of both
4 of these piers which we have shown here, \$550,000.00
5 and \$330,000.00 for the south pier, will not exceed
6 that figure with the proposed alteration which I have
7 described here today.

8 It has the additional advantage
9 that where we could put down a regular pier with
10 pockets for dredging, in order to get down to material
11 we might disturb the formation against the existing
12 piers. This way of driving piles, that would be totally
13 eliminated in my opinion.

14 Mechanical equipment and
15 electrical equipment --

16 Q. What do you mean by "mechanical
17 equipment"?

18 A. Equipment which operates the lift
19 span. There is quite a lot of it.

20 Q. Yes?

21 A. Motors and so on.

22 Q. It is machinery?

23 A. Yes, it is machinery that goes in.
24 It is actually all on the bridge itself. It is
25 controlled in the control compartment. Of course the
26 cable switch goes down to the lower position and they
27 are held in by electrical motor and spun to the upper
28 position.

29 The clearance, I think I already
30 said, was 145 feet.



1 Q. You have an estimate for the
2 cost of removal of the existing span, do you?

3 A. Removal of the existing span,
4 \$35,000.00. There would be some salvage in it, as
5 a matter of fact.

6 Q. Can you estimate what the salvage
7 value is?

8 A. We have allowed \$35,000.00. We
9 expect to get a bit for \$35,000.00. It has already
10 been examined.

11 Q. That is a net figure?

12 A. That is a net figure.

13 Q. And the total of the items that
14 you discussed -- I am not sure that you read to me
15 exactly what I have. Your correct sub-total for
16 item 1 is \$306,000.00?

17 A. Yes.

18 Q. Item 2 is \$234,000.00?

19 A. Yes.

20 Q. Item 3, \$550,000.00?

21 A. Correct.

22 Q. Item 4, \$330,000.00?

23 A. Correct.

24 Q. Item 5, \$250,000.00?

25 A. Check.

26 Q. Item 6, \$80,000.00 and item 7,
27 \$35,000.00?

28 A. Correct. Engineering contingency,
29 1%. I presume the Commissioners have a copy of this.
30 Now, I might say --



1 Q. Before we go on, is there any
2 revision you care to make in these figures as to
3 prices at the present day?

4 A The only figure that I feel is
5 a firm price are items 1 and 2. I feel pretty well
6 satisfied that the change in the construction that
7 I have suggested in the two new piers which will carry
8 the load, actually carry the vertical column, I feel
9 that the figures which we have used there are pretty
10 solid figures.

11 Q. Now, have you personally inspected
12 this bridge at any time?

13 A. I have on one or two occasions, but
14 I have never made a close inspection, but I have
15 been there with the Dominion Bridge when they were
16 making their inspection.

17 Q. When have you last seen the bridge?

18 A. I have seen it within the last year.

19 Q. Did you have occasion to inspect
20 the bridge in 1959 with Dominion Bridge?

21 A. Yes, I did, but I think the only
22 part that was of interest was in the swing span. It
23 had not been maintained quite as well as the rest of
24 it.

25 Q. What is the general condition of
26 the bridge today?

27 A. Well, it is fortunate that the
28 bridge which was built, which was completed in 1903
29 also carried a traffic deck for two-lane traffic, and
30 that is the only thing that has made it possible for



1 that bridge to operate today with the increase in the
2 weight of railway traffic, particularly locomotives,
3 otherwise that bridge would have had to be replaced.
4 But the members are heavy. I think they are in
5 condition. If they are properly maintained this
6 bridge could very well operate for another 40 years.

7 COMMISSIONER SMITH: For how long?

8 THE WITNESS: For another 40 years, as
9 long as it is properly painted. The members are heavy
10 and there is some new pivots that need to be taken
11 care of, but the Dominion Bridge Company report states
12 that the bridge is in very good condition, and they
13 are in the bridge business. I can't see that they
14 would -- they would very well like to see a replacement,
15 in other words.

16 MR. LEGG: Q. It is against their interests
17 to say it is in good condition; is that what you are
18 getting at?

19 A I would say so.

20 Q. Have you finished with your
21 description of the inspections that you made of the
22 bridge?

23 A. Yes, I have.

24 Q. Are you satisfied that the piers
25 that exist are in a condition where they could receive
26 the new structure?

27 A. The existing piers?

28 Q. Yes.

29 A. The existing piers are in quite
30 good condition. They are deep caissons similar to what



1 we have for our two main piers and two further piers
2 to the north in the Pattullo. They were put down, I
3 imagine, by the same process.

4 Q. In the Pattullo Bridge?

5 A. Yes. I might say we got surprising-
6 ly good material. Due to the heavy current there was
7 comparatively small amount of silting, the current
8 carrying it away, and both piers 3 and 4, which are
9 the main piers of the Pattullo Bridge were carried down
10 to a grade of very coarse sand, and I am sure it is
11 of interest to know we never got any registered
12 settlement in any of the 9 piers that form the main
13 structure of the bridge.

14 Q. Now, Mr. Swan, you have been
15 describing your experience as a result of work you
16 did on the Pattullo Bridge piers; is that correct?

17 A. That is correct.

18 Q. You have been referring to the
19 footings and the nature of the bottom of the river
20 at the Pattullo Bridge?

21 A. I have referred to the nature of
22 the terrain, you might call it.

23 Q. Yes. Now, Crown Zellerbach filed
24 an Exhibit, Exhibit 165, and as part of that Exhibit
25 there was a plan which has previously been marked as
26 168. It is called Appendix 13 to the Crown Zellerbach
27 brief. It sets out first of all a plan of the railway
28 bridge, showing its swing span and soundings and also
29 a profile view showing the ground line between the
30 swing span pier and the north and south piers



1 respectively.

2 A. I am not sure that that is correct.
3 That south main pier, I do not think I have seen this
4 before. From where did it originate?

5 Q. This is something that has been
6 put in evidence.

7 A. Yes, you are quite right. In the
8 case of the Pattullo the proposed pier is carried down
9 to 70 feet.

10 Q. Judging from your familiarity and
11 experience with the bottom of the river in constructing
12 the Pattullo Bridge, what have you to say as to the
13 bottom of the river at the site of the railway bridge?

14 A. Well, we took borings in the
15 line of the Pattullo Bridge and, of course, I saw the
16 material that was excavated during construction. I
17 can only speak by inference, but the current is
18 pretty well identical under both bridges and I would
19 expect the material to be the same.

20 Q. You would expect the material which
21 constitutes the bottom of the river to be the same?

22 A. Of course, it is sand and not very
23 much silt and probably the same formation we got at
24 70 feet. This formation is right down in that
25 neighbourhood, at least that deep. We got a grey sand
26 which was very stable.

27 Q. Can you assist the Commission with
28 any description of the currents in the river at the
29 railway bridge site so far as reconstructing it into a
30 lift span bridge is concerned?



1 A. Well, you mean during the
2 construction?

3 Q. Yes.

4 A. During construction there should
5 not be any very great problem because it will have
6 to be built in the off-season from the freshet. It
7 would be about three months, it would have to be built.
8 Well, as I say, I think it could be put together in
9 seven weeks, but there would be at least another five
10 or six months prior to that.

11 Q. Well then, the currents did not
12 offer any problem in your opinion?

13 A. The currents did not offer any
14 problem in the construction.

15 Q. Does the nature of the bottom of
16 the river offer any problem?

17 A. No, none whatever. It is from
18 50 to 60 feet deep.

19 Q. Is there any problem arising from
20 shift of sand?

21 A. From shifting sand, no. I do
22 recall we had divers down. There is very little
23 current when you get down into 50 feet of water --
24 very little current at the bottom.

25 Q. Is there any probability of
26 scouring on the river bottom which would offer a
27 problem to the construction of the bridge?

28 A I cannot conceive of one. This
29 ground has been tested now for 60 years and I do not
30 believe there has been any specific change in the



1 formation that was under the original bridge.

2 Q. Does the construction of a bridge
3 at this point in the manner you have described in
4 Exhibit 182 in your view pose any dredging problem?

5 A. There would be no material to
6 be dredged.

7 Q. No. Is there any other problem
8 that I have not mentioned which may be imposed by the
9 bridge in reconstructing it?

10 A. Well, for the period of seven
11 weeks the traffic upstream on the north side as it
12 does today will have to pass through just slightly
13 over 100 feet. There is 165 feet there now and
14 there will be little better than 265 feet finally,
15 which will reach straight through the middle of both
16 bridges in line with their center line.

17 MR. LEGG: I think those are all my
18 questions.

19 -----
20 CROSS-EXAMINATION BY MR. JACQUES:

21 Q. In the revision of your estimate
22 did you take into account any possible increase in
23 labour costs since 1961?

24 A. Well, I have done. I think
25 probably, as I have explained here this afternoon, the
26 piers can be built for a substantially less amount
27 than we estimated at that time. I think that would
28 take care of the increase in the cost of steel. I
29 got the present day prices, one from Dominion Bridge
30 and one from Western Bridge.



1 Q. What about after the lift span
2 has been built in place and is now operating; do you
3 foresee any changes in the currents?

4 A. No. The span would have nothing
5 to do with it. The only thing that would affect it,
6 if anything, would be the piers, and of course they
7 are quite small. As a matter of fact the swing span
8 pier takes up much greater space than the combination
9 of these two, and that will come out. The swing span
10 pier will be removed. As a matter of fact I would
11 look for a straightening of the current there with
12 the swing span out.

13 Q. Owing to the removal of the
14 swing span?

15 A. After the removal of it, yes.

16 MR. JACQUES: Thank you, sir.

17 THE CHAIRMAN: Are there any further
18 questions of Mr. Swan?

19 COMMISSIONER RENWICK: I have one question
20 which I do not think has been touched upon and that
21 is the economics of the transfer of the rail traffic.
22 I understand the rail traffic can be converted?

23 THE WITNESS: I do not know what the
24 contract with the Department of Public Works is. I
25 would think they would have the right at some time
26 to make alterations and that the railway companies
27 would have to find another route. Of course, it is
28 quite possible. There is no great problem for the
29 CN or the Great Northern. They interchange at Mission
30 with the CP. They would have to pay for the running



1 rights over a period of seven weeks and the Great
2 Northern would have to come up over the Southern
3 Pacific line.

4 COMMISSIONER RENWICK: In other words, it
5 is quite feasible to keep the railway traffic in
6 service?

7 THE WITNESS: Yes. The BC Electric would
8 not be so fortunate. Some effort was made, I think,
9 by the Harbour Commissioners to determine what the
10 loss would be. I believe they put it at \$160,000.00
11 that might have to be paid to the railway companies
12 for the interruption of their traffic, provided that
13 the contract provided that they could have free un-
14 interrupted use.

15 COMMISSIONER RENWICK: Thank you.

16 MR. JACQUES: Q. And when you discussed it
17 with the Harbour Commissioners you mentioned that they
18 might have to pay \$160,000.00 as diversion costs?

19 A. The which?

20 Q The \$160,000.00 as diversion costs?
21 To divert the railroad to another bridge during
22 construction?

23 A. Well, I do not think it interests
24 the Commissioners very much. They were quite satisfied
25 that they were not going to have to pay the bill.

26 MR. JACQUES: Oh, I see; thank you.

27 COMMISSIONER RENWICK: Just to clarify the
28 matter, Mr. Jacques, the lines are in there. There
29 would be no railroad building.

30 THE CHAIRMAN: Only the rights.



1 RE-DIRECT EXAMINATION BY MR. LEGG:

2 Q. There is just one point that I
3 might draw to your attention, Mr. Swan. Reference has
4 been made to one of the curves of the railway line on
5 this approach to the bridge as being unsatisfactory.
6 Have you any comment to make as to what has been done
7 to meet that problem?

8 A. Yes. I talked with the senior
9 engineer of the Department of Public Works some months
10 ago. It is a comparatively sharp curve -- that is,
11 compared with main line operation. It is a 14 degree
12 curve, which means it has a radius of about 430 feet.
13 There is a "slow" order on the bridge, but the "slow"
14 order is not due to that curvature, because they could
15 still get around. We have a high in Vancouver of
16 a 20 degree curve, which has a radius of only 20 into
17 57 - 60.

18 They had quite a little trouble
19 cutting the earth and they got 130 pounds high alloy
20 steel rails for that curve, and there has been no
21 damage done to the rails for the last two years. There
22 may be some to the wheels of the traffic -- that is,
23 the locomotive and its cars; but there is not any
24 evidence of it. Usually on these sharp curves you see
25 the splinters cut off. No, I think that curve is quite
26 acceptable for any traffic that will ever cross that
27 bridge.

28 THE SECRETARY: Mr. Swan, I did hear you
29 correctly when you said that you thought the bridge was
30 good enough for another 40 years?



1 THE WITNESS: You did, yes, due probably to
2 the fact that it was very stably built for the load
3 which it is carrying now, because it is only carrying
4 about.....The railway was about two-thirds of the load.
5 Now they have another one-third of strength added to it
6 when the highway --

7 THE SECRETARY: This conversion would not
8 change this?

9 THE WITNESS: The members were made heavy
10 in order to protect the transport load of the Highway
11 Department. That is what gave it its present life.

12 THE SECRETARY: And as converted it would
13 still have a fairly long span?

14 THE WITNESS: Yes. If the care-taking is
15 as good as it has been the last five years I think it
16 will last another 40 years.

17 THE CHAIRMAN: Are there any further questions
18 for Mr. Swan?

19 Thank you very much.

20 THE WITNESS: Thank you, My Lord.

21 ---Witness withdrew.

22 THE CHAIRMAN: Do you have any witnesses,
23 Mr. Lalonde, for the next ten minutes?

24 MR. LALONDE: No, My Lord, I have no other
25 witnesses -- and I hope nobody else has.

26 THE CHAIRMAN: We will adjourn now until
27 tomorrow morning at ten o'clock.

28 MR. LEGG: My Lord, is it the intention
29 of the Commission to call Mr. Lang, I believe his
30 name was?



1 MR. JACQUES: Yes. He is appearing to-
2 morrow morning at ten o'clock.

3 ---WHEREUPON THE HEARING WAS ADJOURNED.

4 -----
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

BINDING SECT.

MAY 2 1972

